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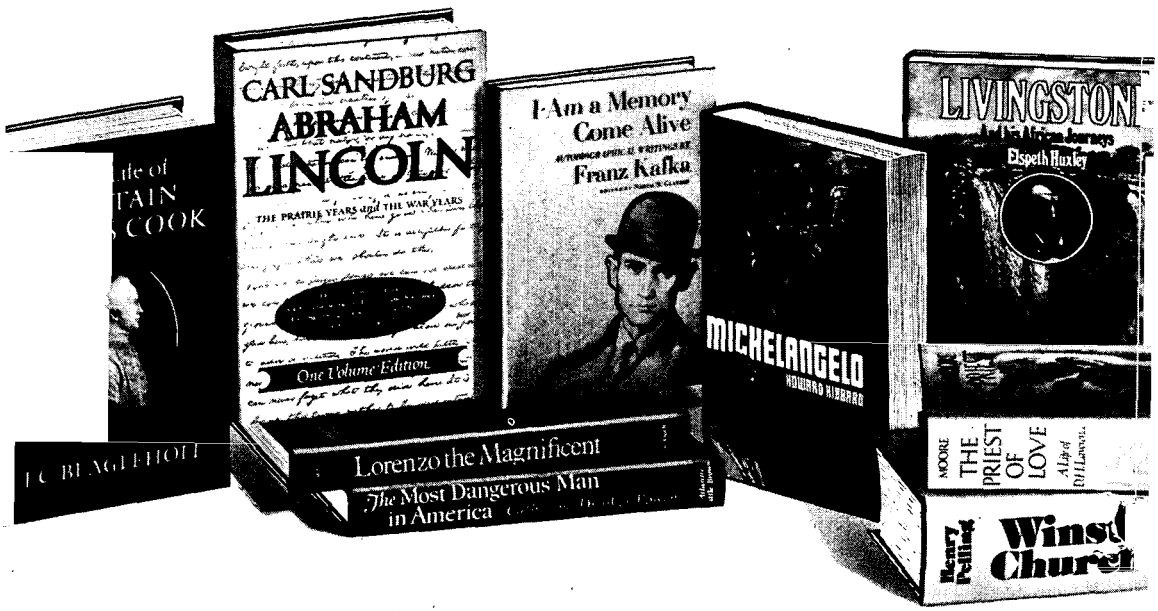

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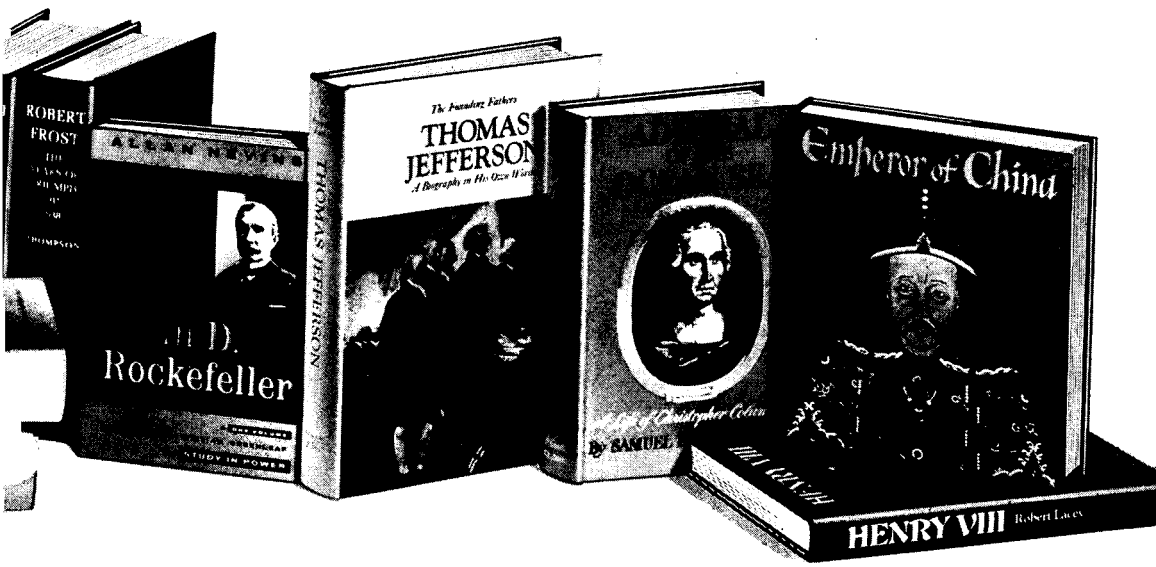

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by David Hapgood

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Accountants: Those Wonderful People Who Brought You Maurice Stans
by Thomas Redburn
If authors could choose their own critics, they'd get rave reviews every time. But businesses choose their own auditors. The result is not just an occasional Bernie Cornfeld but a systematic obfuscation of corporate financial affairs. **4**

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Accountants: Those Wonderful People Who Gave You Maurice Stans

by Thomas Redburn

The National Student Marketing Company is one of the more famous businesses that flourished briefly in the heady climate of the late 1960s. Founded in 1965 by 29-year-old Cortes Randell, NSMC became an amazingly successful enterprise almost immediately. Designed to tap the youth market—"youths" were said to spend more than $45 billion annually—NSMC went public with its stock less than three years after its founding. Within six months it was selling at more than 80, up smartly from the original price of 6. Randell became a very rich man. The most respected investors in the country lined up to listen to his tale of how he was going to make them richer, too. It was a shining example of capitalism in action—the old making way for the young, the Establishment opening its doors to the adventurous. Prudent investors like Bankers Trust, the Morgan Guaranty Bank, Harvard University, Cornell, and the University of Chicago all bought shares in National Student Marketing.

Thomas Redburn is an editor of The Washington Monthly.

But they didn't realize just how adventurous Randell really was. For the fiscal year ending August 31, 1969, the company reported earnings of nearly $3.2 million. This report was duly certified by the outside auditors, Peat, Marwick, Mitchell & Co., the nation's largest accounting firm, on November 21, 1969. Yet only nine days later NSMC released its quarterly report which stated that the company was no longer as confident in the success of an important division of the company. As a result there would be a "charge against earnings of approximately $510,000." Nothing to worry about, said Randell. The company was now diversified enough to survive stormy weather. Hadn't the auditors supported his claim of over $3 million in profits just a few days before?

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Randell confidently predicted that next year would show earnings far exceeding these figures of 1969. But in February 1970, less than three months after the soothing report from the accountants, NSMC, like the walls of Jericho, came tumbling down. The company reported a $1.5 million loss for the first quarter. The stock fell from a high of 140, where it stood in late December 1969, to 3½ by July 1970. Today the stock is being traded over the counter at about 25 cents. Randell was forced to resign, but not before he had sold most of his stock, safely putting away a few million in cash. Such "insider" stock manipulations are illegal. Randell will be going to jail this year, but that is the price that sometimes has to be paid for getting rich.

The two principal auditors for Peat, Marwick, Mitchell also will be going to prison for the part they played in deceiving the investors. At the sentencing, the judge told the two accountants that he wanted to avoid heaping the blame on them alone for something "which is really shared by many people in your profession and indeed in many professions including my own—some sort of myopia as to what is really the public responsibility of [someone] who performs services as a public accountant."

The judge went on to explain, "I seriously doubt that you are any worse than many in your profession. And, indeed, I suspect you are much better. . . . As individuals, I am almost sure you are." We can only wonder that if these are the best. . . .

How did this happen? To the average investor, and apparently also to some of the most sophisticated, National Student Marketing had turned overnight from a vibrant, growing concern to one that was on the rocks. It didn't make sense. But to someone who examined carefully that

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seemingly honest accountant's report of late 1969, the truth might have gradually emerged. Not very many took these pains, because hardly anyone could understand it. The fact was that the auditors had approved an elaborate juggling of the books which included profits from certain NSMC subsidiaries in the over-all total, even though the subsidiaries had not been acquired by the end of the fiscal year. The auditors didn't lie about the profits; they said later they had mentioned that awkward fact in a footnote, for all the world to see. This is called full disclosure.

The accountants' manipulation was more than awkward. Without those profits, NSMC would have shown an overall loss of more than half a million dollars. That wasn't all. In order to retain the neat stepladder of earnings, NSMC had included about $2.8 million in income from contracts on which the work was not completed and the bills had not been sent. (Much more honest with the tax collector, NSMC reported to the Internal Revenue Service that it would only count the income after it had billed for it.) In addition, over $500,000 in research and development costs were deferred until some future year, even though the money had already been spent. All this was said to be in accordance "with generally accepted accounting principles applied on a basis consistent with that of the preceding year in all material respects."

This was more than a cleverly engineered fraud, in which the perpetrators conspired to keep everyone else—including the accountants—in the dark. No, in this case, the accountants had fully cooperated. And later, at the trial, the accounting firm insisted that the auditors had acted in good faith. Something far broader than this single case is going on. If you can't trust the accountants, who can you trust?

Invisible Men

It's true that accounting has never excited the public imagination. Accountants were just there, invisible in their gray suits; but even if we did not love them, we felt secure knowing they were keeping an eye on the books. Even Ralph Nader hasn't investigated accounting, presumably because the subject is too boring even for him. The popular image of accountants is generally one of men wearing green eyeshades bent over tables in dusty, dimly lit rooms. Through determined effort, the accountants have been able to upgrade their image to that of the solid, close-mouthed man of propriety. Not a man to inspire romantic images, but at least you can trust him with your money. Dull, but honest.

But times have changed. Perhaps we should have suspected something when, for three years in a row in the late 1960s, the profession awarded its highest honor to Maurice Stans. And then, when more than a score of important corporations, all of them properly certified by the most respected firms in the profession, promptly went under, the reputation of accountants tarnished as quickly as that of the go-go stocks they certified. For example, Leasco Data Processing's stock went from 57 to 9 because what seemed to have been seven years worth of profits, by a wave of the hand, suddenly disappeared. Its earlier "profits" had been approved by Touche, Ross & Co.

Minnie Pearl's Chicken Systems, which National General Corporation bought to cash in on the franchising boom, subsequently lost $23 million. It was later revealed that, for two years, Minnie Pearl had been making most of its money by selling franchises to its own officers and directors, who then turned around and reported the sales as income. This little arrangement and the whole Minnie Pearl statement had been certified by Price, Waterhouse.

And then there was Mill Factors Corporation, which filed for bankruptcy in 1968, and was later found to have been insolvent as early as 1965. The accounting firm of Lybrand, Ross Brothers & Mont-

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gomery was sued for its part in the collapse and subsequently settled for $4.95 million.

It isn't just the investor, bedazzled by the multi-color pictures and graphs in the financial reports, who suffers when accounting reports turn out to be fake. The few spectacular bankruptcies are only the tip of the iceberg, hiding the hundreds of companies that don't fail, but whose financial reports are unreliable. Accounting has become, in the words of one Wall Streeter, "a branch of creative writing."

The extent of public knowledge of what is really happening behind the corporate facade is often limited to what the corporations choose to put in their financial statements. The general public as well as potential investors has a genuine need to know exactly what is going on. For example, when General Motors raises the price of a new car by $1,000 and blames it on increased costs caused by inflation and government regulations, where can we go to check GM's arithmetic?

If we could count on the balance sheet to tell the truth, perhaps we could go to the accountants. Yet here is Leonard Spacek, the senior partner for 16 years and chairman for another eight, of Arthur Anderson, one of the Big Eight accounting firms, on "generally accepted accounting principles":

"How my profession can tolerate such fiction and look the public in the eye is beyond my understanding. I suppose the answer lies in the fact that if your living depends on playing poker, you can easily develop a poker face. My profession appears to regard a set of financial statements as a roulette wheel to the public investor—and it is his tough luck if he doesn't understand the risks we inject into the accounting reports."

Spacek is a maverick, but many other accountants are now conceding that the principles are flexible enough to permit a great deal of latitude in reporting profits. Alan Greenspan, chairman of the Council of Economic

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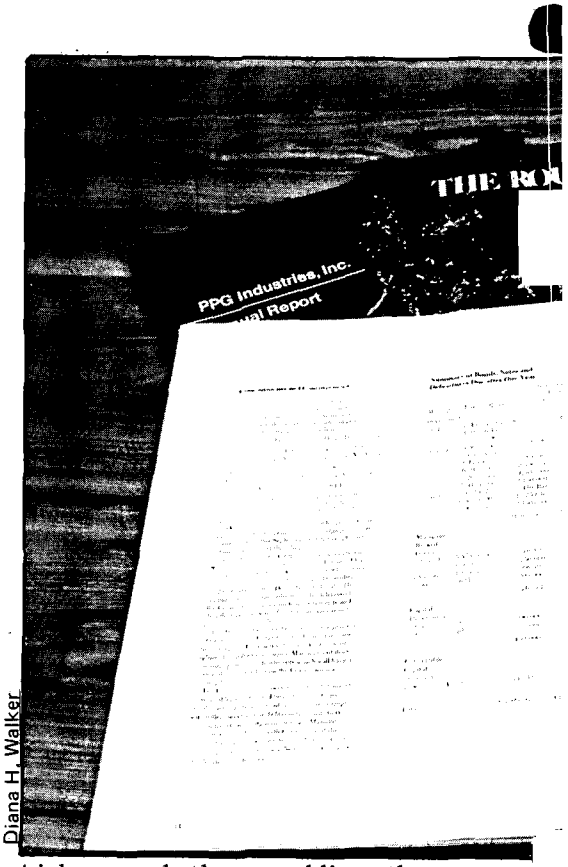
Advisors, says "profits are only a product of the accountants. . . you never really know what they are."

So it isn't just the sucker who is left unprotected. If Alan Greenspan can't determine the true profits of a corporation, then none of us can rely on the audited statements to evaluate what corporations are doing. We are left to accept pretty much on faith whatever the managers decide to tell us. The clearest illustration of just how much management can try to get away with—and how much fun they can have at the public's expense—is the recent history of conglomerates.

Dirty Pool

When, during Wall Street's happy days of the 1960s, two companies prepared to merge, they could choose between two corporate accounting procedures. One method was called "pooling-of-interests"; the other, "purchase." Originally each method was supposed to be used for the specific circumstances for which it was designed, but as time went on, these rules of thumb seemed to disappear. The accountants were permitted to choose between the two methods more or less arbitrarily, and so they invariably used the one that made their client's profits look best.

Neither method made much sense to people unschooled in corporate finance, but this undisciplined use did more than simply substitute one kind of confusion for another. It was, in fact, the main propellant for the fictitious and short-lived booms in conglomerate stock prices. When a company with a popular stock (one with a high price-to-earnings ratio) merged with one with a lower ratio, the accounting rules could be rigged so that the earnings of the newly merged company went up automatically. This happened even though the newly combined company did no more business than the two companies had done separately before. This frequently dazzled unsuspecting investors, who bought into the company, driving the price of its stock still



Diana H. Walker

higher, and thus enabling the company to acquire new subsidiaries with its high flying stock.

There were other loopholes in each accounting method that permitted even more creativity on the part of the financial controllers. For example, in 1967 Gulf and Western issued about $185 million in securities to acquire a number of companies (including Paramount Pictures and Desilu Studios). Yet, using pooling accounting, they were permitted to list those securities on their own books at a value of only $100 million—which was the value the newly acquired companies themselves had assigned to their own assets on their own books. It is, of course, the most basic rule of commerce that this "book" value—which represented the "historical," or original, cost of the assets that the companies had acquired over the years—is almost always less than the actual market value. By the time of the merger, the assets had obviously grown in value

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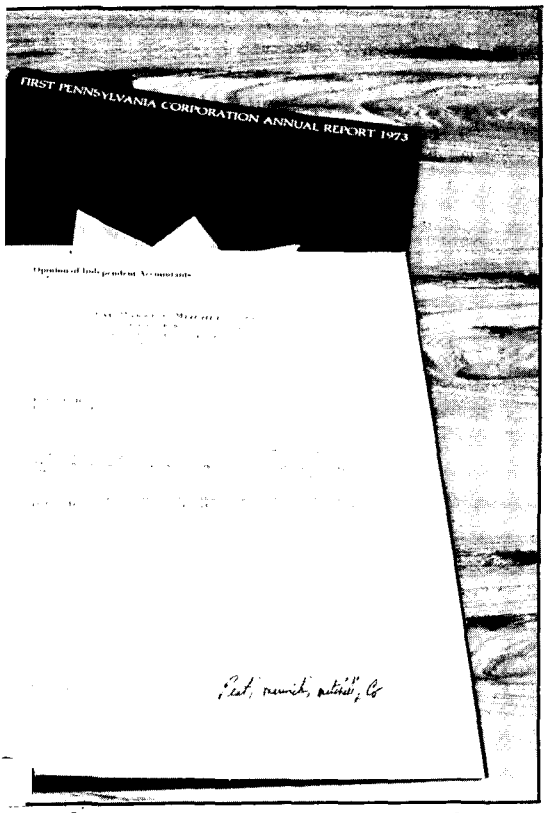

from their original total of $100 million; the clearest proof of this point is that Gulf and Western offered to pay $185 million to acquire them. Why, then, did Gulf and Western put the $100 million figure on its ledger? Because now that the new companies were all part of one big happy family, who would you charge the cost against? Yourself? It was very nifty and it led to the expression "funny money" to describe this kind of maneuver. And best of all, Gulf and Western was able to capitalize the extra $85 million as an asset on *its* books.

As you can guess, pooling became a very popular method of accounting. Originally it had a legitimate purpose: when two companies of equal size totally merged, they combined the talents and resources of both management teams into an improved union. In practice, this very rarely happened, yet the accounting technique became universally permitted. In 1968 ITT, using the pooling method, was able to withhold almost $750 million in assets; this figure represented the difference between what ITT had paid for the companies it had acquired and the book value of the newly absorbed companies. Then ITT was permitted, if it wished, to sell the assets at a price well above their book value and inject the income from the sale or rental into its own income stream. With such methods at its disposal (Harold Geneen, whatever else he is, is a talented accountant), ITT was able to maintain an almost monotonous growth record, increasing its earnings by about ten per cent year after year.

You can't play tricks with pooling as easily today as ITT did then, but it took the collapse of many shaky conglomerates to provoke the accounting profession to revise its rules so as to prevent such flagrant abuses. It is important to remember that pooling and related sleight-of-hand practices were perfectly acceptable at the time, and that the primary reason there are fewer abuses lately is that the stock market is so flaccid. There is no assurance that, given better economic conditions, the same things wouldn't happen again, with new loopholes entering the accounting lexicon.

What LIFO Means

In fact, since today earnings are not so highly valued by the market, companies have switched strategies. Instead of trying to exaggerate their profits, they try to hold them down to reduce their taxes. One perfectly legal way for companies to do this is to switch their method of accounting for inventories from first-in-first-out (FIFO), which is the most common method, to last-in-first-out (LIFO). These two methods, when prices are rising, can yield quite different profit figures. Here is how it works:

Assume that a company buys a ton of steel in January for $500. It is used in the production of a product, and the company replaces that ton with another in November. But in the meantime the price of steel has risen

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to $700 a ton. Under FIFO, the company enters the $500-a-ton steel as a cost for the year, leaving the $700-a-ton steel in its inventory. Using LIFO, the company registers the $700 ton as a cost, leaving the $500 in inventory. During the boom times of the stock market, FIFO was obviously more popular, since most companies wanted to present the most attractive profit picture they could. The only drawback was that the company had to pay taxes on its profits, and FIFO therefore led to a higher tax bill.

In the good old days when everyone, not just Merrill Lynch, was bullish on America, most companies didn't worry as much about taxes as they did about earnings. Chrysler Corporation, for instance, switched from LIFO to FIFO in 1970 in order to boost sagging earnings. But now that the market is lifeless, earnings aren't so important. Moreover, as inflation has sped up, the apparent "inventory profits" produced by FIFO have ballooned to enormous proportions, leading to a higher reported income and higher taxes. Hundreds of corporations are now switching to LIFO, which many accountants maintain is more honest bookkeeping, but which also has the convenient effect of reducing taxes. What is important here is that the accountants, and, for that matter, the IRS, have permitted such changes as a matter of course. If LIFO really were a better method, you would expect accountants to insist on it at all times, not just when it is convenient for the companies they audit. It should not be amazing that corporate managers themselves are eager to choose whichever path is momentarily expedient. The accountants' pliability, however, is somewhat less honorable.

Protection from Uncle Sam

And where has our government been, while these maneuvers have been going on? The IRS enters the picture only to require that companies use the same inventory method in reporting to the public that they use for tax purposes. Surprisingly enough, even this minimal requirement isn't always demanded. Nearly all businesses report figures to their shareholders different from those they report to the government. And in nearly every instance, the publicly reported earnings are higher than the taxable earnings. The real estate business provides a convenient example of how this works.

GAC Properties was a typical recreational land development company, using the standard accounting procedures of the trade. Parcels of land were sold on installment, over a period of 7 to 14 years, usually with a very small down payment. Yet, GAC, and many other real estate companies, included the total purchase price of the lot in reporting profit to its shareholders. But under its regulations, GAC was required to pay taxes only on the actual cash received during the year, not on the full profit they were reporting publicly. In 1965, the profit GAC reported to the public was $14 million higher than the profit it reported to the government for tax purposes, and in 1966 and 1967 $20 million and $10 million more respectively. In 1968, the company got caught with too much cash and paid taxes on a $5.5 million profit but told its shareholders that there was a $1.6 million loss. And in 1969 the GAC lost $16 million for tax purposes but reported to stockholders a $25 million profit. Finally GAC was purchased by Gulf American Co., where its profit-loss disappeared into the larger conglomerate.

Sandy Burton, chief accountant for the Securities and Exchange Commission, which has regulatory authority over accounting practices of publicly listed companies, says such discrepancies are perfectly legitimate: "The differences between tax and book accounting arise because taxes must be more directly linked to actual cash flow, while a company's books should more accurately reflect the fundamental economics of the situa-

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tion. If you made tax laws the basis, you'd get worse accounting."

Undoubtedly there is some truth to this. The land development companies got in trouble not because they were reporting different figures as income, but because they lent money at too low a rate and assumed that everyone would keep up payments on the property after making the down-payment. As it happened, many purchasers didn't come through with these later payments. Boise Cascade had to write off $44 million in losses in one quarter. Boise Cascade eventually left the land development business. It was only in 1974 that the SEC finally required corporations to publicly account for differences between reported income and taxable income and also to provide explanations whenever their effective tax rate differed from the legal tax rate of 48 per cent.

Leasco's Mirage

One of the hottest industries of the 1960s was the computer leasing field. The best-known of these companies was the Leasco Data Processing Equipment Corporation. Leasco's stock became so valuable that through the magic of share prices and price-earning ratios, it managed to "take over" an insurance company more than five times its own size. For a while it even threatened to buy Chemical Bank—one of the nation's largest. Yet from beginning to end, Leasco's rapid rise and even more rapid decline was largely based on an accounting mirage.

During the 1960s Leasco was one of Wall Street's glamour stocks, but in 1971 it was forced to admit an extraordinary loss of $30.8 million for 1970. This wasn't just because in 1970 Leasco had a bad year. The accounting methods they followed, which had been certified as "generally accepted," permitted Leasco's computers to be depreciated over a period far longer than one could reasonably expect they would be in use. The company was able to apply the full investment tax credit in the first year equipment was purchased, and hide the fact that it was being forced to write leases that would show a loss in the later years of the contract. As it turned out Leasco lost more money in 1970 than it made in all the seven previous years of computer leasing combined. The only profit-making unit of the company was Reliance Insurance, which Leasco had acquired when everyone was being dazzled by its early earnings record.

The Tottering Pyramid

More honest accounting would not have prevented the trouble Lockheed Aircraft found itself in before its famous government-backed $250 million loan. It might, however, have prevented the company's top management from saving its own skin by secretly selling the Lockheed stock well before the crisis was revealed to the public. As early as 1968 (it was 1970 before the truth leaked out), the auditors knew Lockheed was in

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trouble because of cost overruns on the C-5A. By the time the 1968 annual report was issued, even the Air Force was estimating that Lockheed would lose at least $285 million on the contract. Despite the Air Force estimates, the auditor's footnotes informed shareholders, in 1968, that "no loss is anticipated on the contract." Not wishing to be viewed as a bunch of Pollyannas, the accountants covered themselves with this sentence, "However, complete realization of the inventory is dependent upon the accuracy of the estimated costs to complete and the legal interpretation of certain clauses in the contract." Some help.

The 1969 report proved embarrassing. In a footnote which took up 180 lines of type, the auditors finally conceded that there was a possibility of a $500- to $600-million loss which they had somehow previously overlooked. When the SEC staff looked into the matter, they found that as early as 1967 "the statements made [in a bond prospectus] did not fully and adequately describe all pertinent factors, and it requires much reading between the lines, with knowledge of the underlying circumstances, to catch the issues and the real risks facing this company." How was anyone supposed to acquire knowledge of the underlying circumstances if the auditors wouldn't describe them?

How did accountants get in a position where, instead of maintaining their role as the guardians of the public interest, they became the accomplices of the corporate managers—both honest and dishonest—they were supposed to watch over? As we have seen, some companies desired earnings higher than they could honestly produce. Xerox, IBM, and Polaroid, to choose the best-known examples, had shown the way to wealth, and more wished to follow.

The problem was that few companies had the kind of product which made Xerox or IBM great—a revolutionary breakthrough in office machines or an effective monopoly on computers. But since amateur investors were looking eagerly for another winner from the same mold, promoters and their creative accountants were sorely tempted to simply conjure up the appearance of growth. As Ralph Saul, president of the American Stock Exchange, describes it, there has been a change in what the Market is looking for, from "concentration on producing goods and services to an increasing concern with earnings per share, price/earnings ratios, and financial results, almost independent of the process of production and consumption of industrial products and services."

Whole companies sprang into life just to display their growth patterns, and, as "Adam Smith" wrote, "Some of them kept the neat stepladder right up to the day they filed for bankruptcy." Others, like ITT, were transformed from obscure companies to corporate giants through the steady production of rising earnings achieved by merger manipulation. As long as Wall Street was happy, everyone was happy, even though the factories themselves might be barely operating. "The whole massive conglomerate," Anthony Sampson wrote, "from Tokyo to Chile, from smoked hams to telephones, rested like a vast upside-down pyramid on a pinpoint—the share price on the New York Stock Exchange. . . . The share price in turn was intimately linked with the price/earnings ratio or multiple, which indicates how far investors have faith in the share in the future as a growth stock."

So instead of being rooted in economic reality, many enterprises rested on the elusive confidence of investors and the ingenuity of the finance men in fanning that investor confidence. And to make the whole thing legal, the independent auditors went along. Harvard Business School graduates came up with wondrous new subtleties, encouraging the good, gray accountants to touch up the reports with a little color here and there.

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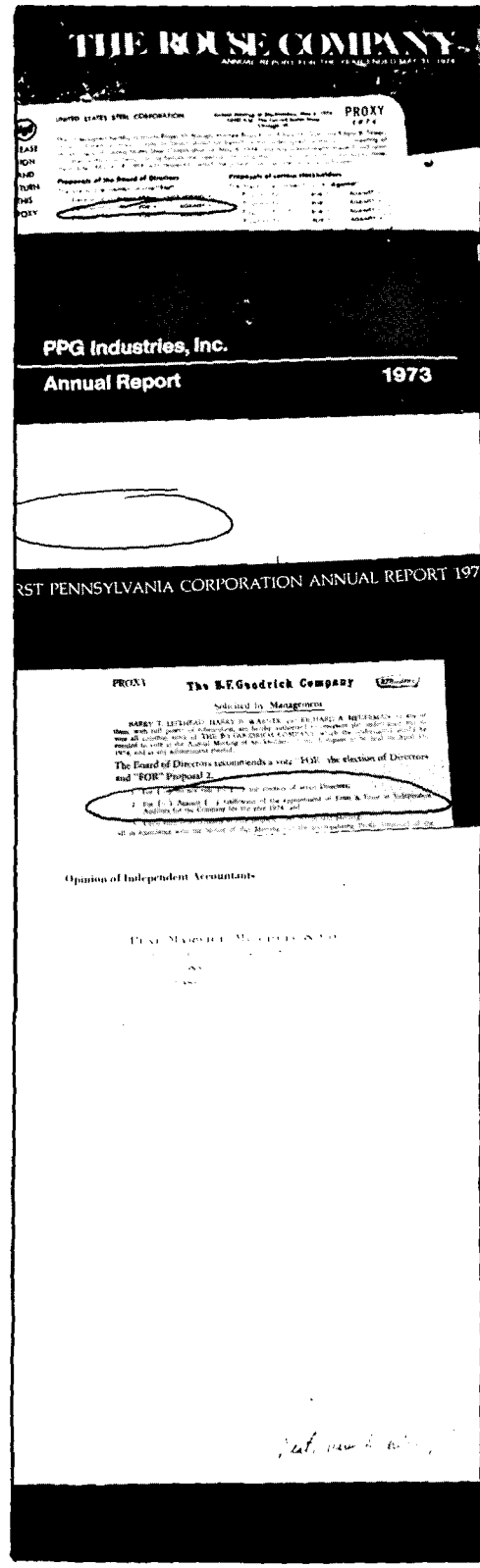
The spirit of flexible accounting, born among the high-fliers and would-be acquirers, soon spread to even the most hide-bound, conservative corporations, who always had to be on guard against a takeover bid from Wall Street's latest wonder company. Since the stock of a growth company was highly prized by investors, it could be held out as a lure, a tempting offer to the stockholders of a solid but slower-moving company the high-flier wanted to acquire. Traditional companies loosened their rules in order to increase earnings, even if it meant sinking the company much further in debt and mortgaging its future. Make it more difficult for the bastards, they said to themselves; better to cook the books than be taken over by Leasco. In 1969 Armco Steel changed its depreciation accounting. At the same time hundreds of other companies were doing the same thing because, as Armco's president explained, "The move was a defensive ploy designed to get the stock up and out of reach of asset-hungry conglomerates and other acquisition-minded folk." Conservative accounting, then, which was designed to preserve the permanent assets and stability of a company, became an absolute liability to companies trying to preserve their independence.

The accountants' reply to all this is that times change, and accounting procedures must be flexible enough to change with the times as well. A spokesman for the profession says, "Comparable companies will show *substantially* different earnings depending on different accounting principles, varying expectations about the future, and different managerial attitudes. There are ranges of what is permissible, and the accountant has no power whatever to take exception to the array of items within them." If *that is true*, why do we need independent auditors? What is it that they do for *us*, the public, as opposed to the managers who hire them?

One way to get at the question is to explore this issue of "flexibility."



Diana H. Walker

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Maurice Peloubet, the former head of Pogron, Peloubet & Co., points with pride to the adaptability of accounting and the frequent differences of opinion among auditors over interpretations of the rules. It is a healthy sign, he says; it would be unhealthy, one may infer, if the accountant's individual discretion were far more severely circumscribed. One suspects that part of this attitude, this pride in professional judgment, arises from the fact that accountants have traditionally held a lower professional status than, say, lawyers or other groups whose discretion is far broader. The accountants may sense that differences of opinion, like those of the adversary procedure of the law, will make their craft appear wiser and more respectable. No one wants to be relegated to the role of simple bookkeepers. There is a strong sensitivity to calls for uniformity, especially in the wake of some restrictive rules passed to prevent future conglomerate "booms." As Victor Earle, the general counsel for Peat, Marwick, Mitchell & Co., says, "Judgmental alternatives can never be eliminated. There is no such thing as an accounting cookbook. Even if such a cookbook could somehow be developed, it would take Procrustean application to make it suitable for all business enterprises. That kind of rigidity, with its robot-like behavior on the part of accountants, is not in the public interest."

Nonetheless, with much kicking and screaming, the accountants are slowly becoming more susceptible to the scrutiny of outsiders. The Financial Accounting Standards Board, the rule-making body for the profession, has recently moved to require that research and development costs must be charged against income in the year in which they are incurred. This is an important improvement, but it is sad that it came only after years of foot-dragging and after important court cases ruling against auditors frightened the profession.

This and other detailed changes, however, will be of limited effect until the fundamental cause of the accountants' sad performance—their dependence on the clients who pay their fee—is ended once and for all. The court cases, along with moderate pressure from the SEC, have stiffened the resistance of auditors to the most flagrant abuses, yet most reform efforts have been of the ad-hoc, after-the-fact variety. Overhanging it all is the threat that if the auditor won't go along with his client's plans, the company can always get itself another auditor. There might be an awkward moment or two explaining it to the SEC, but the rules are still flexible enough to permit a great deal of latitude—and who reads SEC 8-K reports anyway?

Abraham Briloff, professor of accounting at City University of New York and author of a critical book called *Unaccountable Accounting*, is trying to get younger CPAs to adhere to what he calls a Nuremberg Code, which would require resistance to unscrupulous requests from corporate officers. He still has a long way to go. One of the security analysts who responded to a survey on accounting by Lee J. Seider, stated, "Accountants are unable to bite the hand that feeds them."

Even when accountants as a profession attempt to stiffen the rules, they are often unable to overcome the resistance of their corporate employers. The predecessor to the Financial Accounting Standards Board, which was created in 1972, was a rule-making body called the Accounting Principles Board (APB). Composed exclusively of accountants, it was responsible for issuing formal opinions setting down proper accounting procedure. In 1967, under pressure from corporations, the APB actually rescinded a rule it had already issued. This rule would have forced many companies to account for their mergers more honestly, by restricting the use of convertible debt. But the

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opposition of many companies, especially the airlines, caused the board to back down. And in 1971, following the enactment of Nixon's investment tax credit, the APB prepared an opinion forbidding companies to apply the entire credit in one year. Howls of protest prevented the board from formally issuing the ruling, although the APB "stood firm" with a *suggestion* that companies follow the recommended policy. The suggestion was promptly ignored.

As if their basic employee-employer relationship were not compromising enough, some accountants have found another way to reduce their independence. Many firms have been engaging more and more heavily in management consulting. You can't blame them, for consulting is a lot more interesting (and often lucrative) than preparing endless audit worksheets. They also can't be sued for bad advice, as they can for a bad audit. Yet the consulting sideline creates serious dilemmas, for in the course of serving as advisors, auditors may sometimes discover facts which challenge the authenticity of the financial reports. In the early sixties, for example, Peat, Marwick, Mitchell & Co. was the accounting firm for Yale Express. Soon after the release of the 1963 annual report, PMM was hired as a consultant. The auditing firm, now acting in a new role and with different men, discovered the figures it had certified were false and misleading. But for a substantial time after the firm discovered the error, it did nothing. It was only after the special study was completed, in May 1965, that PMM went to the SEC with its allegations.

The stockholders of Yale Express sued everybody involved, including the accounting firm. The judge in the case, in an early hearing, determined "that PMM is attacked in the complaint because it wore two hats in conducting its business relations with Yale during the period in question. PMM audited and certified the financial statements. . . as a statutory independent public accountant. Following the certification PMM switched its role to that of an accountant employed by Yale to undertake special studies. . . . In this sense it can be seen that during the special studies PMM was a 'dependent public accountant.' " Peat, Marwick, Mitchell soon after settled out of court for about $1 million.

Sandy Burton of the SEC suggests that no auditor would ever repeat the mistakes that PMM made during the Yale Express episode. Perhaps. But we have a right to expect more of supposedly independent professionals than that they don't make the same mistake over again. There will always be enough permutations in that game for everyone to make his own unique mistakes.

It may spoil much of the fun, but accountants, if they are to maintain their independence, can't be giving management advice. If their suggestions are followed, and then prove to be mistaken, there would be the overwhelming tendency to smooth

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over it by fudging the figures or writing incomprehensible footnotes, if possible. And it also places auditors in a much closer relationship to people who may have to be told they are doing something wrong. Of course, auditors should be free to suggest improvements and changes in accounting procedure. That is part of their job.

Avoiding Another Leasco

Obviously, auditors can't be expected to discover everything. Victor Earle warns that young people may be "deterred from entering the profession because its public image is mindlessly warped, or because the public's expectations fail to acknowledge the limits of human fallibility." But it is not enough to point to some of the improvements that have indeed been made and to argue that we haven't seen a recurrence of the same abuses. One of the main reasons we haven't heard about fake conglomerates and exaggerated earnings statements recently is that these days there is no business advantage in presenting them. But when the stock market begins its rise and the tempting conditions reappear, we will need a stronger sort of protection if we hope to avoid a repetition of the Leasco saga.

If, as the accountants maintain, strict uniformity is impossible, then we are forced to rely on the independent assessment of the auditor. But his independence is constantly being challenged, not only by the demands of dishonest managers, but also by the sense of tolerance, the shared outlooks, which even the most honest accountant begins to show toward the client who selects and pays them. Auditors seldom "sell out" to retain a fee, but their role places them in a position where their sense of obligation toward the company is stronger than that toward the public. How can it be different when many auditing firms work for the same companies for years on end, knowing that no one else is likely to check on what they are doing unless the most egregious errors are made?

Thus, one reform immediately suggests itself. Auditors should be chosen by someone other than the businesses they survey, perhaps by the SEC or a specially created federal agency. Corporations would also have to seek the approval of this agency in order to fire an auditing firm. Further, auditing firms should only work for one corporation for a limited period, say 3 years, so that another auditor would always be following behind to check on the work. Some people suggest that this would lead to less useful audits, because experience with the operations of a company as well as cooperation from management is necessary. Perhaps, but common sense suggests that truly independent auditors would be more likely to challenge practices that may be perfectly legal, but don't present the fairest picture of the operations of their client to outsiders.

It is always difficult to challenge a person you work closely with. That is why, for example, the CIA's reports are so much more dubious when it is evaluating its own operations than when it is pointing out the error and bungling of the State Department. But one's own reputation for accuracy takes on enhanced importance when one knows someone else will be coming along to challenge any error.

Corporations have long since passed the stage where they are solely private organizations. Their power to affect the public is immense, yet their operations are still shrouded in mystery. For multinational corporations it is even worse. Even such basic information as the amount of income earned in each country in which a corporation operates is kept secret. Accounting, of course, cannot tell us everything, cannot inform us of the wisdom of a company's policies. But truly independent auditors, responsible first to the public, might go a little way toward giving us an honest accounting of just what it is that corporations do with our money. ■

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Memo of the Month

The Washington Post

Date 7 MAY 1974

TO THE TEACHER

FROM SCHOOL SERVICES

RE: SCHOOL SERVICE SCHEDULE

Due to unforseeable labor problems this department has been unable to operate in accordance with the normal production schedule. One of the pamphlets that was scheduled for this school year, "Work: The American Ethic," will not be printed until next fall.

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Shaking the Sheiks

by David Ignatius

It is now more than a year since the Organization of Petroleum Exporting Countries (OPEC) cartel quadrupled the price of oil. The dire predictions of economists and political scientists about the consequences of the price increase have proven to be all too accurate. The world monetary system has been unable either to balance the massive deficits of consumers with the massive surpluses of producers, or to develop an effective system for transfer payments between the two. This monetary instability has in turn bred a lack of confidence among investors and consumers—creating the conditions for a chronic and sustained world depression. All this was forecast a year ago by those who looked carefully at the new oil balance sheet; yet the U.S. and its allies have been unable to lower the oil price by so much as a penny.

Have we, then, no leverage whatsoever over the OPEC countries? Is the economic lesson of the past year that a disciplined cartel can, if it chooses, simply draw its prices out of a hat?

In the last several months, there has been a grim debate in foreign policy circles, examining just what options *are* available to the U.S. and its industrial allies for use against OPEC. In January, Secretary of State Kissinger openly admitted that *military intervention* against the oil kingdoms might be necessary "if the United States were faced with economic strangulation." Earlier, in November, Kissinger had joined with Treasury Secretary William Simon in endorsing head-on economic confrontation with the OPEC countries. The Kissinger-Simon plan called for concerted action by the oil—consuming countries toward a variety of goals:

David Ignatius is a graduate student in economics at Kings College, Cambridge.

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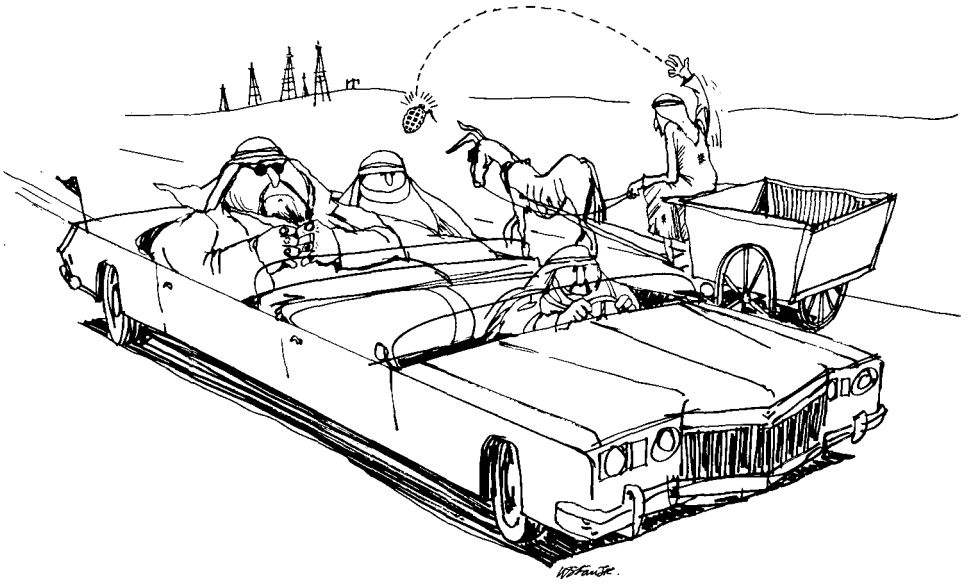

reducing demand for OPEC oil, devising some means for the industrial countries to share the balance-of-payments burden, and rationing available oil in the event of another embargo. There have been several other proposals for cooperative action, as well as calls for tit-for-tat reprisals like anti-OPEC tariffs, counter-cartels, food embargos, and diplomatic harassment.

For the most part, the oil sheiks have ignored the provocation and continued with their money-counting. Because they assume that the U.S. will not risk nuclear confrontation with the Soviet Union in the Middle East, the Arabs do not fear our military threat. And because they know that the industrial countries simply cannot reduce their oil consumption enough to alleviate the payments crisis, they discount our threat of concerted economic action. The futility of the reduced-consumption approach, by itself, was well illustrated by George McGhee in a January article in *The Washington Post*. He pointed out that the government's conservation goal—which so far has proven to be too optimistic—is a six-percent reduction in our consumption of oil. Even if we were able to meet that goal, McGhee continues, the declining production from our own domestic wells would force us to import more oil than we do today.

To put it bluntly, the OPEC nations act as if they are doing us a favor by producing oil. Their ultimate rejoinder to talk that the price of oil is too high is a simple "take it or leave it."

There is, however, one threat that seems to terrify the oil magnates. Surprisingly, it has gone almost unreported, for the OPEC nation's fear on this issue belies confidence on

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so many others. The threat is the potential ability of the U.S. and its allies to manipulate the price of gold.

When the U.S., France, and other countries began to alter the terms of sale and valuation of gold late in 1974, there was consternation in the Persian Gulf. In a December 19 interview with the Associated Press, the Shah of Iran warned that any fluctuation in the value of gold would send oil prices so high that international commerce would quickly collapse. The Shah's immediate concern was an agreement reached earlier that week between U.S. President Ford and French President Giscard d'Estaing at their Martinique summit. The two presidents agreed that governments should be allowed to revalue their gold reserves upward, from the official price of $42.22 an ounce to the market price, then about $185 an ounce. This would more than *quadruple* the value of the industrial countries' gold reserves, and thus help these countries to pay their oil deficits. Since the U.S. alone has some 275 million ounces of gold in reserve, this one move would increase its purchasing power by more than $40 billion.

Surprisingly, most major newspapers failed to carry the AP interview. Few readers were able to note the Shah's panic, "If our purchasing power is lost, everything goes," and his Kissingeresque warning, delivered, ironically, before the Secretary of State's use of the same metaphor in *Business Week*, "If they want to strangle us. . . . we will be like people who are drowning, having recourse to anything. It won't be just a question of a few percent inflation. It could even be the collapse of the whole monetary system."

So we *do* have something that can shake the Shah. He may be wrong in perceiving it as an immediate threat, for it would seem that the Arabs would respond to a rise in the valuation of gold by once more raising the price of oil. It's immediate potential for disaster would be confined to the poor countries which possess little gold or oil, which may explain why the leftist government of Iraq, which seldom agrees with the Shah on anything, bought a full-page ad in *The New York Times* in December to protest the Ford-d'Estaing gold agreement.

But the Shah may well have seen beyond the plight of the Chads and Nigers and realized that the rise in the valuation of gold could be a second step in the cycle of economic attack and retaliation that was initiated by the OPEC price increases. Whatever his reasons for concern, the important thing is for us to take advantage of it to begin to make the Shah and other oil princes focus on the dangers of a mutually suicidal economic struggle with the industrial powers.

Going Down with Faisal

The simple fact the oil powers seem to have forgotten is that any seller, even a monopolist, can survive only as long as he has a buyer. In the absence of trade, oil is worth almost nothing to the Middle Eastern producers. They typically have no industrial plants of their own to fuel; and worse, unlike gold or other mineral resources, oil is not even decorative. In the long term, then, the Arabs can best sell their oil, and maximize their earnings, under world economic conditions not so different from those of the sixties: a higher price for oil, perhaps, and a larger share for the developing countries in general, but the same steady growth, reasonable inflation, and reliable outlets for investments as prevailed during those years. The Arabs depend on the West not only to buy their oil but also, ironically, to preserve the purchasing power of their enormous reserves. With the dollars, pounds, and marks that pile up, the OPEC countries can, over time, buy all the useful or decorative assets, goods, and services they can absorb. Unless, that is,

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inflation causes their money to lose its stability as a store of purchasing power. In that case, the producers will look for assets, other than cash, such as land abroad, or in foreign capital assets, like luxury automobile factories.

But even these assets will lose their reliability as stores of purchasing power in an unstable political/economic environment. If the host country feels that it is being exploited by the foreign investor--that its economic difficulties, in other words, are directly related to the swollen profits of the foreign investors—the foreign-owned assets will very likely be nationalized. For years, American investors have encountered this problem, and U.S. multinational corporations have been forced to tread a line between "acceptable" profits abroad and the "excess" profits which invite retaliation. So will the OPEC countries.

By their actions to date, the OPEC countries have not exactly created the ideal conditions for investing in foreign countries. If the world economic situation gets worse—that is, if the oil price remains at its present level—where will the OPEC countries be able to put their money? Like misers of other eras they may shift toward scarce commodities, such as gold and Old Masters. But even here, they are not secure, because of the recent tampering with the price of gold and its wild fluctuation in European and U.S. markets. If the stable purchasing power of gold is lost, then OPEC oil—in the ground or out of it—cannot be measured against any fixed standard of value. As traders, the members of the OPEC cartel must have some standard denominator of value (or *numeraire*) if they are to survive. But they cannot establish such a standard alone; they must do so with their trading partners. If the current situation can be compared to a chess game, the Arabs clearly hold most of the chess pieces. But we own the board upon which the game is played.

Over the Top

The question which OPEC must ponder is whether, in the world it is creating, the stability necessary for GNP growth and trade will exist. Already, most currencies have lost their dependability. As the Western economies grow more slowly—and, with the onset of Depression, actually decline—the value of capital assets becomes questionable. And now, the perceived "attack" on gold.

Thus, for the OPEC cartel, there is in effect an absolute ceiling price for oil—beyond which OPEC risks losing everything. Many analysts (see particularly the article by Hollis Chenery in the January 1975 issue of *Foreign Affairs*) argue that the current price schedule is well above the ceiling, and that adherence to it will destroy the very trading system on which OPEC depends.

The great irony is that the oil consumers' only credible threat to the Arabs is that, if the Arabs continue to hold their price above the long-term ceiling, the world economy will

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collapse, and with it the value of their money, their financial holdings, and their oil in the ground.

Our most important and immediate political task, then, is to make sure the Arabs understand that their long-run survival cannot be separated from our own. By their actions to date, they have created a world in which people have begun to talk about steps which would have been considered grotesque and outrageous two years ago—U.S. military intervention in the Persian Gulf, the creation of an "Organization of Grain Producing Countries," and denying the Arabs the machinery they need to get the oil out of the ground.

A spokesman for the Petroleum Equipment Suppliers Association notes that in 1974 over $1-billion worth of American oil equipment was exported. Ninety-nine per cent of OPEC oil rigs, averaging $2 million each, were made in America, and the most valuable parts—mud pumps, rotary drilling bits—can best be replaced by American companies. Of course, denying the Arabs equipment to produce oil that we need would be self-destructive, just as military action and the use of the grain weapon by us and other countries would be outrageous. But it defies human nature to think that if countries feel they have been pushed to the limit, they will not lash back with whatever weapons they have. Perhaps the reason the Arabs have not considered this possibility is that they have assumed their commodity to be the only one the rest of the world really needs. The fact is, of course, that as the world economy has become more complex and as world trade has grown, dozens of countries have acquired control over commodities and services as powerful as oil. Bauxite, chromium—these and many other resources lack oil's positive power to fuel an industrial world, but they have its negative power to disrupt and destroy. Even the world financial market is part of this category. A handful of western countries have it in their power to deny the services of the international money market to everyone else, and thereby destroy whatever currency they choose. They have not done so, of course, for they would destroy themselves in the process; and what the Arabs must understand is that the oil situation is not so very different.

The point which must be made to the Arabs is not that our "gold weapon" or even our "food weapon" can beat their "oil weapon," but that if we continue to use the weapons against each other all of us are going to lose. Even on their home ground the Arabs are threatened by the economic crises they have created. Although the stereotype of the oil producing country is Kuwait, with its 900,000 people and its $9 billion in oil revenue last year, not all the countries fit this model. There are 30 million people in Iran and 35 million in Egypt—which, though it has no oil, is of enormous political influence within the Arab bloc. Even Saudi Arabia has a population of eight million. The distribution of wealth within these countries is, to put it mildly, not ideal, and as the pressures of worldwide inflation continue, someone is going to get the idea that all those billions of oil dollars should be seized for "the people." Then it will be no more Cadillacs for the sheik, no more villas in the south of France, but a bullet hole in the stomach—and not from a Yankee soldier, but from his own people. Such a possibility is more than mere speculation; on the first day of this year, more than a thousand workers rioted in the streets of Cairo, complaining about their low pay and the quickly rising cost of living. If the rulers of the other Arab countries are as hard-minded as they pretend to be in dealing with the West, they must realize that the same, and far worse, can happen to them.

All of this is unpleasant talk, to be sure, but it is not unrealistic, and if the ugly consequences are made clear soon enough, they may never be any more than talk. ■

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Getting Tough With Israel

by J. William Fulbright

I believe that the current situation in the Middle East is shaped by two central facts. One is the volatility of the Arab-Israel conflict, and the high probability of another, greater war if the central issue of the occupied territories is not soon resolved. The second—which for domestic political reasons we are exceedingly reluctant to acknowledge—is the close relationship between the Arab-Israel conflict and the price and availability of oil.

The danger of a fifth Arab-Israel war is acute, and if such a war comes, it will almost certainly be more violent and more protracted than the previous wars. In the period of truce since the October 1973 war both sides have rearmed heavily. The consensus of military experts is that the strategic balance is shifting to the Arab side, not only because of Soviet supplies but also because of the greatly improved training and technical competence of the Egyptian and Syrian armed forces. Egypt and perhaps Syria are now armed with Russian surface-to-surface "Scud" missiles, which would enable them to attack Israeli cities as well as Israel's vulnerable oil storage facilities. Israel, for her part, is generally assumed to have acquired nuclear weapons, and if Joseph Alsop—whose Israeli connections are excellent—is to be believed, Israel is prepared to use those weapons if her cities are attacked. In Alsop's view, Israeli warnings already issued amount to a veiled but unmistakable threat of nuclear war.

The alternative to war—and the only alternative—is a general settlement. It is no derogation of Secretary Kissinger's achievements to note that the disengagement agreements of the past year and the limited Israeli pullbacks in Sinai and the Golan Heights were no more than preliminary accomplishments. The difficult issues remain—in particular Jerusalem and the West Bank—and unless they are resolved, there will almost certainly be war, a war that would devastate Israel, quite possibly provoke a Soviet-American confrontation, and most certainly bring on a new, ruinous oil boycott. This prospective crisis is not remote or hypothetical; it is closer to being a clear and present danger.

It cannot be permitted, and it is up to the United States, not alone but in collaboration with the Soviet Union and the United Nations, to prevent it. Israel, it appears, is stalling, and with nothing concrete in mind except to get all the arms and money she can from the United States, so as to try to hold off the inevitable. The Israeli leaders might have made good use of time gained since last year's truce to prepare for the necessary accommodations. They might have been telling their people, as Israel's first and wisest leader, David Ben-Gurion, tried to tell

J. William Fulbright is former chairman of the Senate Foreign Relations Committee. This article is adapted from a speech he delivered at Westminster College.

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them in 1971, that peace is Israel's "great necessity," and "to get it we must return to the borders before 1967." "As for security," he added, "militarily defensible borders, while desirable, cannot by themselves guarantee our future. Real peace with our Arab neighbors—mutual trust and friendship—that is the only true security."

The shift of the balance of power gives added force to Ben-Gurion's prescient words. This shift is more than a matter of improved weapons and fighting skills on the Arab side. The rise of the Arabs is based upon two powerful and growing forces: money and nationalism—the enormous wealth which is accruing to the oil-producing states of the Persian Gulf, and the surging national feeling of the Arab peoples, especially the embittered, tenacious nationalism of the Palestinians. The brief, spectacular ascendancy of the Israelis in the Middle East has been based primarily on human assets which, beyond a certain point, cannot be expanded—discipline, energy, bravery, and competence. Impressive as these human assets are, they do not and cannot overweigh the fact that Israel is a small country with modest natural resources and heavy liabilities. It has no oil except that of the occupied Sinai fields. Its economy is burdened by military costs and inflation, and is so dependent on the United States as to make Israel—however little we or the Israelis may care to admit it—a client state of the United States.

Diana H. Walker

What is taking place in the Middle East is a long-term historical unweighting of the scales of power, comparable, say, to the inexorable displacement of France by Germany as the paramount power of Europe in the nineteenth century. In the Middle East, however, it is all happening much faster. Myopia among the Israelis, with their siege mentality, is perhaps understandable. It is much less so among Israel's supporters in the United States, who, by underwriting intransigence, are encouraging Israel on a course which must lead toward her destruction—and possibly ours as well.

Israel, I am convinced, can and should survive as a peaceful, prosperous society—but within the borders called for by the UN Security Council in November 1967. That resolution also calls for a settlement "guaranteeing the territorial inviolability and political independence of every state in the area. . . . This provision, can be implemented by great power guarantees contracted through the United Nations Security Council and, in addition, by an explicit, binding American treaty guarantee of Israel.

That much we owe them, but no more. We do not owe them our support of their continued occupation of Arab lands, including old Jerusalem and the Palestinian West Bank. The Palestinian people have as much right to a homeland as do the Jewish people. We Americans—who have always professed adherence to the principle of self-determination—should be the first to appreciate that. But when the United Nations General Assembly voted last October, by 105 to 4 with 20 abstentions, to allow the Palestine Liberation Organization to participate in the Assembly debate on

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Palestine, the United States was in the minority of four, together with Israel, Bolivia and the Dominican Republic.

So completely have the majority of our officeholders fallen under Israeli domination that not only do they deny the legitimacy of Palestinian national feeling, but also we saw such otherwise fair-minded individuals as the two candidates for senator from New York engaging in heated debate as to which one more passionately opposed a Palestinian state. We have nearly allowed our detente with the Soviet Union to go on the rocks in order to obtain an agreement on large-scale Jewish emigration—a matter of limited relevance to the basic issue of human rights in the Soviet Union and of no relevance at all to the vital interests of the United States. Senator Jackson has further obfuscated the matter with invocations of Article 13 of the Universal Declaration of Human Rights, which states, "Everyone has the right to leave any country, including his own, and to return to his country." Note that the article refers not only to the right to leave but also to the right to return. Is the right of the Palestinians to return to homes from which they were expelled any less fundamental than the right of Soviet Jews to make new homes in a new land?

Within the broader question of the West Bank there is a special importance about Jerusalem. It is here especially that the Arab-Israel conflict converges with the question of the price and availability of oil. Let me explain why:

The oil countries, united in the Organization of Petroleum Exporting Countries (OPEC), appear to be on a kind of power "trip," and their lack of restraint is widely, and properly, condemned. Those most insistent on repeated price increases, however, have not been the Arab states, but two of the principal non-Arab producers, Iran and Venezuela. The largest oil exporter, Saudi Arabia, has shown a keen awareness of the dangerous disruptions threatened by the four-fold increase in the price of oil, and Saudi officials have made known—both publicly and privately, in unmistakable terms—their strong desire to lower prices and to work out long-term supply arrangements for the industrial nations, especially the United States. The Saudis are motivated by strong feelings of friendship and also of reliance upon the United States. Fearing—not only communism

Three years ago, Senator Fulbright proposed a U.S. security guarantee for Israel. Over a year ago Secretary Kissinger was willing to entertain the possibility of a formal treaty for this purpose.

In the overall scheme of a settlement, the intended role of any U.S. guarantee of Israel's borders is clear: to enable Israel to give up Arab territory without giving up military security. Instead of the forcible occupation of Arab lands which Israel has been using since 1967 in an effort to protect her own territory and compel a settlement, the idea would be to substitute a "collective self-defense" arrangement with the United States.

But an American guarantee must be of the right kind.

First, since the *sine qua non* is inducing Israel to withdraw, it must give Israel reliable assurance of physical security. This means that it must commit the United States to act alone if necessary, without either the approval or participation of other countries, if any, that might join in the guarantee. It means also that the guarantee must be in the form of a treaty obligation, for any legally weaker undertaking on our part would not be sufficiently attractive to the Israelis.

—From an article by Lawrence Hargrove which appeared in The Washington Post.

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but also Soviet and Chinese influence in the Arabian peninsula, Saudi Arabia looks to the United States as its mainstay in the Middle East.

But the Saudis are caught in a dilemma. It is exceedingly difficult, if not impossible, for them to accommodate the United States while the United States provides the money and arms which enable Israel to occupy Arab lands. Further—and this is the heart of the matter—King Faisal feels a special responsibility, indeed a stewardship, for the holy places of Islam. Saudi Arabia is the most orthodox of Muslim societies. The holy city of Mecca is within its territory, and the Kingdom uses the Koran as its constitution. Second only to Mecca in sanctity to Muslims is Jerusalem, where the Dome of the Rock is located, scarcely a hundred yards from Judaism's holiest site, the Wailing Wall, and is only half a mile away from the Christian shrine, the Church of the Holy Sepulchre.

As a city sacred to three religions, Jerusalem warrants a special status. Under the original United Nations partition plan of 1947—to which the United States subscribed, and which it has never repudiated—Jerusalem was to be a "corpus separatum under a special international regime." After Israel annexed the old city of Jerusalem in 1967, the United Nations General Assembly condemned the action, by a vote of 99 to 0, and condemned it again on two subsequent occasions.

In a world without effective international law, sovereign nations are often required to choose between justice and self-interest. A fair solution for Jerusalem, however, and of the Arab-Israel conflict as a whole, requires no such choice—no matter what the uncritical supporters of Israel may say. The choice for the United States, they insist, is between Israeli democracy and Arab oil, between high morality—as they would have it—and the crassest greed. In fact, the withdrawal of Israel to her approximate borders of 1967 and the internationalization of Jerusalem would be wholly consistent with the principle of the self-determination of peoples, an international principle to which we have always professed to subscribe.

Not A "Sellout"

An Arab-Israeli settlement will not put an end to the energy crisis. Nor could it be counted upon to bring about an immediate substantial reduction of oil prices. It would, however, eliminate the major irritant in relations between the United States and the Arab states—especially Saudi Arabia—and in so doing create a much improved environment for negotiations on oil supply and prices. A settlement making just provision for the old city of Jerusalem and for the other occupied territories would greatly increase the political influence of Saudi Arabia, and therefore its weight as a force for moderation within OPEC. Saudi Arabia would be liberated, in effect, to do what King Faisal and his ministers want very much to do: cooperate to keep the West, and especially the United States, on which Saudi Arabia relies, prosperous and strong.

Such an approach would not constitute a "sellout" of Israel. Quite the contrary, it calls upon Israel to do nothing more than she ought to do anyway, even if the Middle East contained not a drop of oil. Indeed it would be to Israel's advantage—probably her salvation—because there can be no lasting security for that small, beleaguered community without a settlement, and there can be no settlement without withdrawal. For the United States the occasion—if we rise to it—is one of those rare and happy ones in which justice and self-interest coincide.

Unfortunately, neither the Israelis nor their uncritical supporters in our Congress and in our media have appreciated what is at stake, and the enormous distortion of American interests in our present course. Endlessly press-

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ing the United States for money and arms—and invariably getting all and more than she asks—Israel makes bad use of a good friend. Unlike the Saudis, the Israelis seem not to recognize that if the United States is gravely weakened, they themselves can hardly hope to survive.

For these reasons it has become incumbent upon the United States—working with the Soviet Union through the United Nations—to take the decisive lead in bringing the quarter century of crisis in the Middle East to a prompt and equitable solution. The general outlines of such a solution are clear and even obvious: an explicit acknowledgement by the Arabs, including the Palestinians, that Israel has a right to exist; Israeli withdrawal to the approximate borders of 1967, with United Nations forces patrolling demilitarized zones on both sides; self-determination for the Palestinian people of the West Bank, either as an independent state or in some form of confederation with Jordan, according to their own wishes; a special status for the old city of Jerusalem, providing equal and uninhibited access for members of all faiths; and a general great power guarantee of the settlement and its terms, under the auspices of the United Nations, reinforced by a direct American treaty guarantee of Israel's independence and territory. On the basis of unofficial soundings, there is reason to believe that the Soviet Union would be prepared to join in such a settlement, including the guarantee of Israel.

Holding Back the Apocalypse

A solution in the Middle East is the key to a resolution of the mounting world economic and political crisis. Although it cannot be predicted with certainty, there is good reason to believe that Israel's withdrawal from old Jerusalem and the West Bank will lead to a significant lowering of oil prices, giving the West and others the time they so desperately need to adjust to the new world energy situation. There is even better reason to believe that the failure to achieve a solution will bring a new war, a new oil boycott, and possible consequences therefrom ranging from another Great Depression to Armageddon itself.

To state the matter with simple candor: the United States has done as much for Israel as one nation can do for another—we, and we alone, have made it possible for Israel to exist as a state. Surely it is not too much to ask in return that Israel give up East Jerusalem and the West Bank, as the necessary means of breaking a chain of events which threatens us all with ruin.

As we survey these great difficulties, we cannot fail to perceive that the only available solutions are cooperative solutions. If the world crisis is to be surmounted, unprecedented accommodations will be required, starting with the absolutely essential accommodation of Israel and the Arabs. Beyond that—and because of it—it will become possible to build the equally essential cooperation between oil producers and oil consumers, between rich nations and poor nations, industrial and developing nations. We must rededicate ourselves to the objectives proclaimed by Churchill and Roosevelt in their Atlantic Charter of 1941, including their desire "to see no territorial changes that do not accord with the freely expressed wishes of the peoples concerned," and the right of "access, on equal terms, to the trade and to the raw materials of the world. . . ."

Lord Byron wrote that "the best of prophets of the future is the past." History casts no doubt at all on the *ability* of human beings to deal rationally with their problems, but the greatest doubt on their will to do so. The signals of the past are thus clouded and ambiguous, suggesting hope but not confidence in the triumph of reason. With nothing to lose in any event, it seems well worth a try. ■

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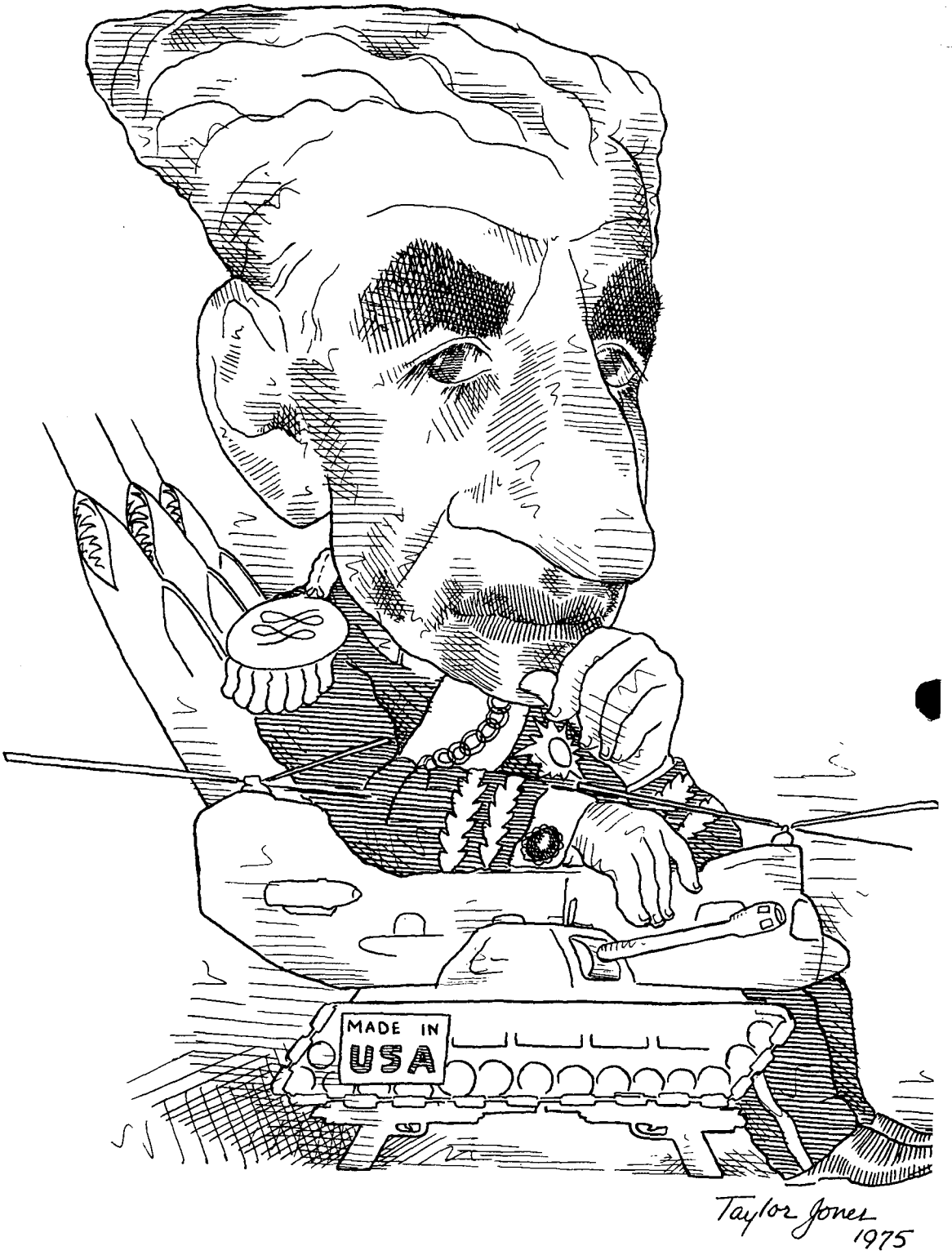

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Arming the Shah: Alms for the Rich

by Walter Shapiro

Doomsday scenarios have been out of fashion since the 1950s, when end-of-the-world epics like *On the Beach* reflected the national insecurity about nuclear holocaust. Now, in the recessionary aftermath of the Arab oil boycott, they seem to be in vogue again. Recently, *New York* magazine gave us a frightening one about how the Shah of Iran could take over the entire Arab oil supply and bring on an international financial collapse. Key to the story was the decision by the French to loan Iran six hydrogen bombs—in exchange for a rock-bottom price on oil, of course.

The significance of the article was not in its fantasy about the future, but in its implications for the present. The Shah didn't need to ask France for anything but the H-bombs because the United States has already either sold or given him every conventional weapon he could possibly need—more than $6 billion worth in the last two years. We have sent the Shah so much that he is now an important arms supplier himself. The Shah has just given 20 American-made F-5 jets to Jordan, and there are strong suggestions that this is just his first of many military charities to the Arab world.

A little-publicized examination of U. S. military sales to Iran by the General Accounting Office (GAO) and made public by Congressman Clarence Long sheds considerable light on the kind of thinking that buttresses our glad-hands-with-the-weapons policy. Although much of the report still remains classified, the non-secret portions are enough to reveal the strange rationale for our continuing acts of philanthropy. We must arm the Shah, the State Department says, because his beleaguered nation faces a number of communist-inspired military threats. Not only is he endangered by Iraq, but there are also "the Communist movements of the People's Democratic Republic of Yemen and the Dhofar Provinces of Oman." The State Department also expressed concern about "the Baluchistan separatist movement" in eastern Iran and western Pakistan.

It is possible that the Shah needs a certain amount of modern military weaponry for protection against his traditional enemy, Iraq. But it is difficult to believe that the Shah, absolute ruler of 30 million people, needs F-14s, the most advanced combat aircraft in the world, for additional security against liberation movements that can't even take over tiny Arab sheikdoms like Yemen and Oman. As for the dread Baluchistan separatist movement, State Department analysts believe it is subversive because it "is supported by both the new government of Afghanistan and

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by Iraq, both of which have strong ties with the Soviet Union."

In its discussion of Iran's relations with Russia, the State Department illustrates the degree to which it is still trapped in the Manichean universe of the 1950s. Although Russia has made no hostile overtures toward Iran in almost 30 years, "the Shah remembers Soviet designs on Iran manifested as recently as 1946. . . . "

Until we achieve something resembling disarmament, the State Department cannot really be faulted for analyzing the ways in which Russia might impinge on our strategic interests. But the GAO report reveals that the State Department is continuing to assume blithely that Russia and China (which, after all, has been known to support the People's Democratic Republic of Yemen) are the only nations in the world that have been causing us international difficulties. Clearly, the two countries which have been causing the most trouble in the last year or so are Iran and Saudi Arabia, which dominate OPEC's pricing policies. Both are staunchly anti-Communist, but that hasn't stopped them from doing more to undermine the stability of the Free World than any nation since the Russia of Joe Stalin.

Just imagine the outcry in this country if the Soviet Union or China—or, for that matter, Albania—were imminently threatening Italy and England with bankruptcy. But when it is anti-Communist monarchs like King Faisal and the Shah who are doing the damage, how do we respond? We sell them our best weapons and then pat them on the back as bulwarks against Communism. Although the Shah now has the capacity to take over virtually all the oil fields in the Middle East, American program planners insist on viewing Iran "as responsible for insuring peace and stability in the Persian Gulf area." The GAO report reveals the State Department's continuing fondness for domino theories. They seem to believe that unless we make Iran the military equal of NATO, "the United States faces the prospect of enhanced Soviet politico-military power flanking Africa, South and Southeast Asia and Australia." As goes Teheran, so go Nairobi and Sydney.

To its credit, the State Department recognizes that we need some kind of reassurance that the weapons we so bountifully provide the Shah will be used in ways that are in keeping with American strategic interests. The State Department provided the GAO with three compelling reasons why Iran would never misuse this American-made weaponry. It is comforting to know, for example, that if Iran were to give 20 of her F-14s to, say, the Cuban air force, this would be a violation of a clause in the sale contract that requires that the "recipient country must agree not to transfer title or possession of defense articles furnished it to a third party without the prior consent of the Government of the United States." (The recent gift to Jordan had U.S. government approval.) Of course, Iran would never dream of violating this clause because the sanctity of contracts is as integral a part of the Free World as reasonable prices and an assured supply of oil.

The State Department also makes clear that it is only doomsayers who detect anything but the most pacifistic intentions in the Shah. The GAO assures us that "U. S. officials in Iran uniformly feel that the Shah's motives are purely for self-defense." One's trust in the judgment of American officials on the spot is tempered only by the realization that the senior U. S. official in Iran is Ambassador Richard Helms.

Our final bulwark against an Iranian military effort to restore the glories of the Persian Empire is that the "Shah has repeatedly expressed his adherence to U. N. principles. . . . " Given the reception that the General Assembly gave that noted pacifist, Yasser Arafat, it is difficult these days to place that much stock in fidelity to U. N. principles.

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Like Giving Gold to Getty

Unfortunately, this anti-Communist monomania, in total disregard for the immediate economic threat to our national survival, is only part of the story. The GAO study also demonstrates the degree to which our government continues to regard Iran as just another cash-poor underdeveloped country. Although the Shah made $20.9 billion in oil profits in 1974, the GAO discovered that the United States is still giving Iran as much as $600 million in indirect military subsidies. Since Iran clearly has more money than it wants to spend on its still largely poor population, giving the Shah an additional $600 million is like pooling pennies to help Nelson Rockefeller defray his moving expenses to Washington.

The largest part of this subsidy is a remnant from those bygone days when oil was not yet king and Iran was a recipient of $836.7 million in direct American military aid between 1946 and 1972. Technically, the United States still owns most of this military paraphernalia now incorporated within the Iranian Army. Finding it, however, presents something of a problem. Part of the difficulty stems from staggeringly lax supervision by the Defense Department. At a time when President Ford refuses to cut the defense budget, U. S. officials are not even taking the trouble to check whether equipment which Iran has discarded as surplus might not be needed by American forces elsewhere. Moreover, not until 1973, after direct military aid to Iran had finally been halted, was the Shah asked to provide some sort of inventory of the equipment he had received. Since then, Iran and the Department of Defense have been carrying out an elaborate minuet that consists of Defense asking for an accounting of the military assistance and Iran asking the U. S. government to "document the number of the items in question so that we can take further action." What seems obvious is that we have no idea of exactly what we've given Iran and they clearly aren't going to tell us.

The sloppiness of the administration of the military aid program is illustrated by the inability of the State Department and Defense to even come close to agreeing how much money is involved. According to State, the equipment in question had an original acquisition cost of $252 million. Defense, however, provided GAO with an estimate that was more than twice as high—$565 million. As GAO put it drily, "The difference is still unreconciled." All this confusion leads to a frightening image of the way our government keeps track of other paraphernalia—like nuclear reactors—we have sprinkled around the non-communist world.

Not all of what Iran still owes us takes the form of military equipment. The GAO study indicates that between outstanding debts and conspicuous undercharges, Iran has come out $83 million ahead in its dealings with us. For example, since 1949 we have

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been trying to get Iran to repay almost $37 million in post-war loans: Iran did demonstrate good faith in March 1973 by paying all of $754,734, but that still leaves about $36 million. The State Department believes that "satisfactory progress" is being made toward a settlement because in late 1973 Iran made clear that it "was fully aware at the highest levels" of the need for a "prompt" settlement. Since no payments have been forthcoming and since the Shah had what those in the business would call "a great year," it is clear that the State Department has a rather loose definition of "satisfactory progress."

In early January *The Washington Post* reported that the U. S. government was putting pressure on international lending institutions to end subsidized loans to oil-producing nations. Ironically, the GAO reveals that until very recently Iran was buying American weapons with subsidized loans through the Export-Import Bank. The subsidies worked like this: The Export-Import Bank is an arm of the U. S. government which supports itself by selling government bonds. In the first half of 1974 it was borrowing money from Americans at 7 and 5/8 per cent and then lending it to Iran at the discount rate of 7 per cent. There was a period in 1973 when Iran was charged just 6 per cent for money that cost our government 7 and 5/8 per cent. The Export-Import Bank recently changed its policies to avoid abuses of this kind, but the GAO calculates that this interest subsidy, when extended over the life of the loans, will have cost us $24.2 million.

America not only provides the Shah with the bulk of his weapons, but also furnishes American military advisors to teach the Iranians how to use them to their best advantage. Currently, there are more than 500 U. S. military advisors in Iran under an arrangement dating from 1947 which provides that Iran will absorb the full cost of the mission. However, these payments were suspended in 1953 during the state of emergency following the CIA-backed coup which gave the Shah control of the Iranian government. These payments have not been resumed, even though, as GAO points out, in their typically understated fashion, "the state of emergency has long been over." The Shah's almost absolute power in Iran is due largely to American support back in 1953, but he is still using that coup as an excuse not to pay $12 million to support the U. S. military advisors. Iran does, however, at great sacrifice, provide the advisors with certain services, such as free gasoline.

The final $10.5 million of the $83 million in indirect cash subsidies to Iran comes in the form of discounts on logistics and procurement advice. Despite official American policy, which now encourages foreign governments to buy weapons directly from American manufacturers, Iran has, in effect, insisted that the U. S. government continue to play middle-man in the deal. Supposedly, Uncle Sam is to levy a two-percent service charge for this procurement advice. But when it comes to our military sales to Iran, nothing seems to go by the book. The GAO has discovered that this two-percent fee was never levied on a number of transactions with Iran.

The dollar amounts involved in many of these indirect subsidies to Iran are not vast. But they and the rest of the GAO report illustrate how little American foreign and military policy has adapted to meet the recent radical change in the world's economic balance of power. At the State Department, all too little seems to have changed, as they continue to cling to the old black-white view of the cosmos which anguishes over pro-Communist Iraq while arming anti-Communist Iran. It is all too easy to envision our policy planners chortling over how they have thwarted the revolutionary movements in Oman and Yemen while the Shah reigns supreme from India to Turkey and the price of OPEC oil has stabilized at $40 a barrel. ■

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View From the Bench: A Judge's Day

by Judge Lois G. Forer

At 9:30 the court personnel begin to assemble. The crier opens court. "All rise. Oyez, oyez, all persons having business before the Court of Common Pleas Criminal Division come forth and they shall be heard. God save this honorable court. Be seated and stop all conversation. Good morning, Your Honor." The crier calls out the names of the defendants. Most of them are represented by the public defender. He checks his files. One or two names are not on his list. A quick phone call is made to his office to send up the missing files.

On one particular day when I was sitting in criminal motions court, three cases had private counsel. One had been retained by the defendant. The other two had been appointed by the court to represent indigents accused of homicide. Where are these lawyers?

As is customary, the court officer phones each of them and reminds his secretary that he has a case listed and he must appear. Several of the defendants are not present. The prison is called to locate the missing parties. The judge, if he wishes to get through his list, must find the lawyers and litigants and order them to come to court.

Frequently the prosecutor cannot find his files. When he does, he discovers that a necessary witness has not been subpoenaed. The case must be continued to another day. The other witnesses, who are present and have missed a day's work, are sent home. The defendant is returned to jail to await another listing. Often cases are listed five and six times before they can be heard.

On this day there were three extraditions. Amos R. is wanted in South Carolina. Seven years ago he had escaped from jail and fled north. Since then he has been living in Philadelphia. He married here and now has two children. His wife and children are in the courtroom. He is employed. Amos has not been in trouble since leaving South Carolina, where 10 years ago he was convicted of stealing a car and sentenced to nine to 20 years in prison. He had no prior record. In Pennsylvania, for the same crime, he would probably have been placed on probation or at most received a maximum sentence of two years.

Now he testifies that he didn't

Lois G. Forer is a judge in the Philadelphia Court of Common Pleas. This article is adapted from her book, The Death of the Law, *to be published in March by David McKay. Copyright 1975 by Lois G. Forer.*

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steal the car, he only borrowed it. Moreover, he didn't have a lawyer. When he pleaded guilty he was told he would get six months. This is probably true. Also, he was undoubtedly indicted by a grand jury from which Negroes were systematically excluded. All of these allegations would be grounds for release in a postconviction hearing, for they are serious violations of constitutional rights. But they are irrelevant in extradition hearings. The only issues that the judge may consider before ordering this man to leave his family and shipping him off to serve 18 more years in prison are whether he is in fact the Amos R. named in the warrant and whether the papers are in order. There is little judicial discretion. One is often impelled by the system to be an instrument of injustice.

This is the dilemma of a judge and of many officials in the legal system. Following the rule of law may result in hardship and essential unfairness. Ignoring the law is a violation of one's oath of office, an illegal act, and a destruction of the system. Some choose to ignore the law in the interests of "justice." Others mechanically follow precedent. Neither course is satisfactory. The judge who frees a defendant knows that in most instances the state cannot appeal. Unless there is an election in the offing and the prosecutor chooses to use this case as a political issue, there will be no repercussions. But it is his duty, as it is that of the accused, to obey the law. If the judge is not restrained by the law, who will be? On the other hand, it is unrealistic to say, "Let the defendant appeal." In the long period between the trial judge's ruling and that of the higher court, if it hears the appeal, a human being will be in jail. One does not easily deprive a person of his liberty without very compelling reasons. Almost every day, the guardians of the law are torn between these conflicting pulls.

After hearing the life story of Amos R., as reported by the prosecutor, the young defender said, "Mr. R. wishes to waive a hearing."

I looked at the lawyer. "Mr. R., do you know that you have a right to a hearing?"

"Yes."

"Have you consulted with your attorney about waiving a hearing?"

"My attorney?" R. looks bewildered.

"Your lawyer, the defender," I pointed to the young man.

"Oh, him," R. replies. "Yes, I talked to him."

"How long?"

" 'Bout two minutes."

"Your Honor," says the defender, "I have spoken to the sheriff. There is no question that this is the Amos R. wanted. The papers are in order."

I search through the official-looking sheaf of documents with gold seals and red seals and the signatures of two governors, hoping to find a defect, a critical omission. At last I discover that Amos R. was arrested in New Jersey on a Friday night. He was not taken to Pennsylvania until the following Monday. It is 89 days that he has been in jail in Pennsylvania. The extradition hearing must by statute be held within 90 days of arrest. By adding on the three days he was in custody in New Jersey, I conclude that the 90-day time limit has not been met. Amos R. is once again a free man. This happy ending is unusual. Bureaucratic inefficiencies seldom redound to the benefit of the individual.

Prisoners of Bureaucracy

The next four matters are bail applications. All the defendants fit the stereotype. They are black males under the age of 30. Only one is in the courtroom. The others are in the detention center. It is too much trouble and too expensive to transport them to court for a bail hearing. I must decide whether to set free or keep locked up men whom I cannot see or talk to. If I don't release them, they may be in jail for as long as a year awaiting trial. The law presumes that they are innocent. I look at the

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applications. This is not the first arrest for any of them. For one there are records going back to age nine, when he was incarcerated for truancy.

"The defendant's juvenile record may not be used against him in adult court," I remind the prosecuting attorney.

"I know, Your Honor," he replies apologetically, "but the computer prints out all the arrests."

"How many convictions?"

The computer does not give the answer to that question.

One man is accused of rape. The record shows that his prior offenses were larceny of an automobile and, as a child, running away from home. The police report indicates that when the police arrived the defendant was in the complainant's apartment with his clothes off. He left so quickly that he abandoned his shoes and socks. The complainant admitted knowing him and gave his name and address to the police. No weapon was involved.

My usual rule of thumb is a simple one: "If he had time to take off his shoes, it wasn't rape."

Before releasing an alleged rapist from jail, possibly to prey on other victims, I want to speak with the accused. Although Lombroso's theory that one can tell a criminal by his physical appearance is out of fashion, I still want to see him, but he is not in the courtroom. Perhaps his lawyer, the defender, can give some helpful information. The defender, however, has never seen the accused. Someone else interviewed him on a routine prison visit. No one knows whether he has a family, a job, a home.

"Please have this defendant brought to court tomorrow and get me some information on him," I tell the defender.

He replies, "I'm sorry, Your Honor. I'll be working in a different courtroom tomorrow. There is no way I can find out about this man."

"We're dealing with human beings, not pieces of paper," I expostulate. "You are his lawyer. You should know him."

The young defender sadly shakes his head. "Your Honor, I work for a bureaucracy."

So do I, I remind myself, as I look at the clock and see that it is past 11:00 and there are 14 more matters to be heard today.

Four Up, Four Down

I refuse bail for a 14-year-old accused of slaying another child in a gang rumble. Will he be safer in jail than on the street, where the rival gang is lying in wait for him? I do not know. The boy is small and slender. The warden will put him in the wing with the feminine homosexuals to save him from assault. I mark on the commitment sheet that the boy is to attend school while in prison awaiting trial. But if the warden does not honor my order, I will not know.

A 23-year-old heroin addict tells me that there is no drug treatment program in prison. "It's just like the street. Nothin' but drugs," he says. I try to move his case ahead so that he can plead guilty at an early date and

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be transferred to the federal drug treatment center. He, like so many others up for robbery and burglary, is a Vietnam veteran. He acquired his habit overseas and now must steal in order to pay for his daily fix.

The next matter is a petition to suppress a confession. Court appointed counsel alleges that the defendant did not make a knowing and intelligent waiver of his rights when he confessed three murders to the police. Cornelius takes the stand and describes his life. His history is typical. He was sent to a disciplinary school at 11, ran away at 12, and spent a year in juvenile jail. At 17, there was a conviction for larceny and another period of incarceration. He is married, two children, separated from his wife. He is vague about the ages of the children. Cornelius works as an orderly in a hospital earning $80 a week take-home pay. At the end of each week he divides his money in two parts: $40 for living expenses and $40 for methadrine, which costs $20 a spoon.

Where does he buy it? On any corner in the ghetto. He steals the syringes from the hospital. His expenses are minimal except for the precious methadrine. He is riddled with V.D. He seldom eats.

While on a high, he shot and killed three strangers. Why did he do it?

"There are these voices I hear. They're fightin'. One tells me to kill; the other tells me not to. Sometimes I get so scared I run out into the street. That's when I'm in a low. But when I'm in a high, I feel I can walk in the rain without getting wet. I don't feel sad, I ain't lonely. When I'm comin' down from a high, I got to get another shot."

Now he is in a low—sad, soft-spoken, withdrawn, disinterested in his own fate. I see his skinny brown arms pocked with little needle scars. The psychiatrist says that when Cornelius is on drugs he cannot gauge reality. He could not understand the meaning of the privilege against self-incrimination and make a knowing and intelligent waiver of his rights.

The earnest psychiatrist explains patiently. I watch Cornelius, wraith-thin, sitting in withdrawn disinterest, lost in some dream of flight. Is he mad or are we—the prosecutor, the defense lawyer, the psychiatrist,and the judge? After five hours of testimony, I rule that the confession must be suppressed. There are dozens of eyewitnesses. The confession is not necessary to convict Cornelius. After this hearing, and before trial, a psychiatrist for the defense will testify that Cornelius is not mentally competent to stand trial; he cannot cooperate with his lawyer in preparing his defense. A psychiatrist for the prosecution will testify that when Cornelius has withdrawn from drugs he will be able to participate intelligently in his defense. The motion to defer trial will probably be denied. At the trial itself, one psychiatrist will testify that at the time of the shootings Cornelius did not know the difference between right and wrong and the nature and quality of his act. Another will testify that he did. Neither psychiatrist saw Cornelius at the time of the crimes. Both of them examined him in prison months later. They are certain of their opinions.

A middle-aged, white, epicenely soft man is next on the list. His face is a pasty gray. He mutters under his breath. He is accused of committing sodomy on three teenaged boys. Most of his meager salary he spent on these boys, and now they have turned on him. I order a psychiatric examination simply because I don't know what else to do. A month later the report is sent to me. It follows a standard format: facts (gleaned from the accused), background, diagnostic formulation and summary, and recommendation. This report states: "Probable latent schizophrenia. We recommend a full examination 60-day commitment." At the end of 60 days and the expenditure of hundreds of dollars, the doctors will decide that he is or is not schizophrenic, possibly sociopathic. A long period in a "structured environ-

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ment" will be recommended. But what will the judge do? There are only two choices: prison, where he will be tormented and perhaps beaten by strong young thugs, or the street.

Lost in the Jailhouse

Most of the prisoners brought before me are young—under 30. I also see children who are charged with homicide. They are denied even the nominal protections of the juvenile court and are "processed" as adults. The 14-year-old accused of slaying another child in a gang rumble; the 16-year-old dope addict who, surprised while burglarizing a house, panicked and shot the unwary owner; the girl lookout for the gang, who is accused of conspiracy and murder. Many of these children are themselves parents. Can they be turned back to the streets? I refuse bail for an illiterate 15-year-old accused of murder and note on the bill of indictment that he be required to attend school while in detention. I ask the court-appointed lawyer to check with the warden and see that the boy is sent to class. But is there a class in remedial reading at the detention center? Who would pay for it? Not the overburdened public schools or the understaffed prisons. It is not a project likely to find a foundation grant.

A perplexed lawyer petitions for a second psychiatric examination for his client. The court psychiatrist has found him competent to stand trial but the lawyer tells me his client cannot discuss the case with him. Randolph, who is accused of assault with intent to kill, attacked a stranger in a bar and strangled the man, almost killing him. Fortunately, bystanders dragged Randolph away. I ask to speak with Randolph. A big, neatly dressed Negro steps up to the bar of the court. He speaks softly, "Judge," he says, "I'm afraid. I need help."

Randolph is out on bail. This is his first offense. He has a good work record. He is married, has two children, and lives with his family. It is Friday morning. I fear what may happen to him over the weekend. The court psychiatric unit is called.

"We've got people backed up for a month," the doctor tells me. "Even if I took Randolph out of turn I couldn't see him until next week." When he does see Randolph it will be a 45-minute examination. A voluntary hospital commitment seems to be the only safeguard. But at least he will be watched for ten days. Gratefully, Randolph promises to go at once to the mental health clinic. What will happen to him after the ten-day period?

There is no time to wonder. The next case is waiting.

It is a sultry day. When the ancient air conditioner is turned on we cannot hear the testimony. When it is turned off the room is unbearable. At 4:45 p. m., I ask hopefully, "Have we finished the list?" But no, there is an application for a continuance on an extradition warrant. The papers from the demanding state have not arrived. It is a routine, daily occurrence.

I look around the courtroom. By this hour only the court personnel and a few policemen and detectives are present. "Where is the defendant?" I inquire. The prosecutor does not know. He is not responsible for producing him. The defender does not have him on his list. "Is he in custody?" I ask. We all search the records and discover that he was arrested more than five months ago. There is no notation that bail has ever been set. No private counsel has entered an appearance. A deputy sheriff checks and reports that he has not been brought up from the prison. The computerized records show that this man has never had a hearing. Hardened as we are, the prosecutor, the defender and I are horrified that someone should be sitting in jail all this time without ever having had an opportunity to say a word. Is he, in fact, the person wanted for an offense allegedly committed years ago and hundreds of miles away? Was he ever there? Is he a stable member of

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society? Has he a family, a job, a home? Is he a drug addict? No one knows. The papers do not indicate. No one in the courtroom has ever seen him. Each of us makes a note to check on this forgotten prisoner whom the computer may or may not print out for appearance on some other day in some other courtroom.

Nobody Waived Good-bye

The scene in criminal trial court is similar. Most of the cases are "waivers" and guilty pleas. The accused may waive his constitutional right to be tried by a jury of his peers and be tried by a judge alone. Fewer than five per cent of all cases are tried by jury. In most cases, the accused not only waives his right to a jury trial but also to any trial and pleads guilty. Before accepting a waiver or a plea, the accused is asked the routine questions. Day after day defense counsel recites the following formula to poor, semiliterate defendants, some of whom are old and infirm, others young and innocent. Read this quickly:

" Do you know that you are accused of [the statutory crimes are read to him from the indictment]?

"Do you know that you have a right to a trial by jury in which the state must prove by evidence beyond a reasonable doubt that you committed the offenses and that if one juror disagrees you will not be found guilty?

"Do you know that by pleading guilty you are giving up your right to appeal the decision of this court except for an appeal based on the jurisdiction of the court, the legality of the sentence and the voluntariness of your plea of guilty? [The accused is not told that by the asking and answering of these questions in open court he has for all practical purposes also given up this ground for appeal.]

"Do you know that the judge is not bound by the recommendation of the District Attorney as to sentence but can sentence you up to --- years and impose a fine of --- dollars? [The aggregate penalty is read to him. Judges may and often do give a heavier penalty than was recommended. They rarely give a lighter sentence.]

"Can you read and write the English language?

"Have you ever been in a mental hospital or under the care of a psychiatrist for a mental illness?

"Are you now under the influence of alcohol, drugs, or undergoing withdrawal symptoms?

"Have you been threatened, coerced, or promised anything for entering the plea of guilty other than the recommendation of sentence by the District Attorney?

"Are you satisfied with my representation?"

All this is asked quickly, routinely, as the prisoner stands before the bar of the court. He answers "Yes" to each question.

The final question is: "Are you pleading guilty because you are guilty?" The defendant looks at the defender, uncertainly.

"Have you consulted with your lawyer?" I inquire.

"Right now. 'Bout five minutes."

"We'll pass this case until afternoon. At the lunch recess, will you please confer with your client," I direct the defender.

In the afternoon, the accused, having talked with the lawyer for another ten minutes, again waives his right to a trial. He has been in jail more than eight months. The eight months in jail are applied to his sentence. He will be out by the end of the year—sooner than if he demanded a trial and was acquitted.

The plea has been negotiated by the assistant defender and the assistant prosecutor. The defendant says he was not promised anything other than a recommendation of sentence in return for the guilty plea. But the judge does not know what else the defendant has been told, whether his family and friends are willing to come

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and testify for him, whether his counsel has investigated the facts of the case to see whether indeed he does have a defense. The magic formula has been pronounced. The judge does not know what the facts are. Did the man really commit the offense? Even if there were a full-scale trial, truth might not emerge. Many of the witnesses have long since disappeared. How reliable will their memories be? The policeman will say he did not strike the accused. The accused will say that he did. Friends and relatives will say that the accused was with them at the time of the alleged crime. The victim, if he appears, will swear that this is the person whom he saw once briefly on a dark night eight months ago.

The lawyers are in almost equal ignorance. The prosecutor has the police report. The defender has only the vague and confused story of the accused. The judge is under pressure to "dispose" of the case. There is a score card for each judge kept by the computer. The judges have batting averages. Woe betide those who fail to keep pace in getting rid of cases. A long trial to determine guilt or innocence will put the judge at the bottom of the list. The prosecutors and public defenders also have their score cards of cases disposed of. Private defense counsel—whether paid by the accused or appointed by the court and paid by the public—has his own type of score card. For the fee paid, he can give only so many hours to the preparation and trial of this case. He must pay his rent, secretary and overhead. All of the persons involved in the justice system are bound by the iron laws of economics. What can the defendant afford for bail, counsel fees, witness fees, investigative expenses? All of these questions will inexorably determine the case that is presented to the court.

The National Conference on Criminal Justice, convened in January 1973 by Attorney General Kleindienst, recommends that plea bargaining be abolished within five years. What will replace it?

At the end of a day in which as a judge I have taken actions affecting for good or ill the lives of perhaps 15 or 20 litigants and their families, I am drained. I walk out of the stale-smelling, dusty courtroom into the fresh sunshine of a late spring day and feel as if I were released from prison. I breathe the soft air, but in my nostrils is the stench of the stifling cell blocks and detention rooms. While I sip my cool drink in the quiet of my garden, I cannot forget the prisoners, with their dry bologna sandwiches and only a drink of water provided at the pleasure of the hot and harried guards.

Was Cottle really guilty? I will never know. Fred made bail. Will he attack someone tonight or tomorrow? One reads the morning paper with apprehension. It is safer for the judge to keep them all locked up. There will be an outcry over the one prisoner released who commits a subsequent offense. Who will know or care about the scores of possibly innocent prisoners held in jail?

This is only one day in a diary. Replicate this by 260 times a year, at least 15,000 courts, and 10 or 20 or 30 years in the past. Can one doubt that the operation of the legal system is slowly but surely strangling the law?

I must sit only three and a half more weeks in criminal court. But there is a holiday. So with relief I realize that it is really only 17 more days that I must sit there this term. Next year I shall again have to take my turn.

I am reminded of Ivan Denisovich. Solzhenitsyn describes Ivan's bedtime thoughts in a Soviet prison. "Ivan Denisovich went to sleep content. He had been fortunate in many ways that day—and he hadn't fallen ill. He'd got over it. There were 3,653 days like this in his sentence. From the moment he woke to the moment he slept. The three extra days were for leap years." ■

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Tidbits

Things Pick Up, though, When the Orioles are Winning

The Department of Human Resources of the District of Columbia recently spent $5,692 to send 15 employees to San Francisco for the annual meeting of the American Public Health Association and $4,882 for nine employees to attend an American Psychiatric Association convention in Honolulu. It also sent Raymond Standard, administrator of the community Health and Hospitals Administration, to Aspen, Colorado, for 39 days to attend a session on "Effective Strategies for Change." But his record was eclipsed by Dr. Jefferson McAlpine, administrator for the mental health administration, who managed to stay on the road for 51 days.

"If the same meeting that took place in Honolulu had been held in Baltimore," Dr. McAlpine told Thomas Love of the *Washington Star-News*, "there would have been no question on it." The trouble is the meeting seldom is in Baltimore.

In fact, a General Accounting Office study of travel by the Department of Human Resources and the D.C. Department of Education during 1973-74 reveals only three individual trips to Baltimore and a total of 74 trips to San Francisco, Honolulu, Montreal, San Diego, Disneyland, St. Thomas, Quebec, Atlantic City, Williamsburg, Aspen, White Sulphur Springs, Miami, Tampa, and New Orleans. On group trips, Baltimore struck out completely, while groups ranging from two to 25 managed to get to Squaw Valley, Ocean City, Denver, San Francisco, Virginia Beach, Atlantic City, Disneyland, Miami, New Orleans, San Juan, and Honolulu.

Maybe Joel Broyhill was Right about Home Rule

If we can catch some of the District of Columbia employees between planes for Miami and Honolulu, we should try to get them to take a course in computers. Otherwise it appears likely that the computer industry will bring the District to its knees. One computer couldn't count the ballots in last year's election. Another has failed to issue warrants in 10,000 cases of moving traffic violations. And a third, which bills trash collectors for dumping trash on city land, recently caused the District to lose $86,000 on one trash hauler alone and thousands of dollars more to 276 other trash collectors.

Bright Side of Auto Layoffs

The Federal Trade Commission has confirmed what all of us suspected: Detroit's lemons now outnumber the cars that work. According to Baily Morris of the *Washington Star-News*:

The FTC had asked Ford for detailed information on the condition of cars and the kinds of drivers used in tests which later turned out to be the proof of widely-promoted gas-saving claims made in ads for five Ford "small cars."

An independent firm performed the fuel economy tests with the Pinto, the Maverick, the Mustang II, the Capri, and the Comet. . . .

But. . . before it could conduct the test run, it had to fix one Mustang, one Maverick, and three Pintos out of eight small cars selected at random for that test.

The newly-built Mustang had a leaking base gasket and the Maverick had a noisy transmission because the factory had installed the wrong bearing. . . .

All three of the new Pintos. . . were unable to "run at idle," the firm disclosed, so three replacement carburetors were flown in to put the cars in shape for the tests. . . .

A Backyard Pyre is the Only Solution

If you happen to want to save your heirs money by being cremated, don't die in Washington, D. C. While the Ft. Lincoln crematorium will do the job for $60, the District law provides that only undertakers can transport your body to the crematorium and can charge anything they want for doing so.

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and Outrages

Move Over Samuelson, Move Over Adam Smith. . .

Joseph Young of the *Washington Star-News* reported in December that, while the national unemployment rate was then 6.5 per cent, the rate for government employees was only 1.3 per cent. Well, of course the federal employee gets more job security because he gets less money. Right? Wrong. A survey reported by *The Wall Street Journal* shows the average federal executive in the 30-to-40 age bracket earns $32,000 a year, up to $4,000 more than the average industrial executive.

The government bureaucrats also try to take care of that 1.3 per cent first. *The New York Times* reports that up to $150 million of federal funds available to New York City for employment programs for the poor were jeopardized because the city had been sitting on the money while trying to find out if it could be used to re-hire bureaucrats who had lost their jobs under Mayor Beame's austerity program.

. . . We're Throwing Out the Old Theories and Bringing in the New.

Russell Baker, having observed the performance of the American economy over the last few years, has produced a new law of economics: Prices go up as demand goes down. Baker looks into the future:

> Only three men in the world can still afford a glass of beer. They are Nelson Rockefeller, King Faisal, and the Shah of Iran. . . . General Motors made only one car, but was able to show its usual good profit margin by selling it to King Faisal for $4.6 billion. . . .
>
> Aristotle Onassis was priced out of the market. Onassis had needed a new pair of pants. His tailor, having sold only two pairs of pants the preceeding year, told Onassis he would have to double the price to stay in business. Onassis, not having the $850 million which the pants would have cost, dropped out of the pants market, and hasn't been heard of since.
>
> The tailor raised the price of pants to $1.5 billion in response to the fall in demand.

When President Coolidge Died, They Asked, 'How Could Ya Tell?'
When President Ford Leaves Office. . .

We have run articles on a senator's day, a bureaucrat's day, and, in this issue, a judge's day. Here is a President's day, as described by John Herbers of *The New York Times*:

Last Tuesday, he began work about 7:30 a.m., meeting with a succession of assistants on a wide range of government business. At noon, he received Judy Miller, the Michigan Apple Queen, who was accompanied by Senator Robert P. Griffin, Republican of Michigan. After that, he met with Canadian Ambassador Marcel Cadieux, who presented him with a set of coins for the 1976 Olympics.

He then met for 15 minutes with his economic and domestic advisers on housing legislation. Then he received George Bush, whom he had appointed head of the United States liaison office in China.

At 1 p.m., he and Mrs. Ford had a private lunch to celebrate their 26th wedding anniversary. Then they went to the Rose Garden to hear blue-grass music by Tennessee Ernie Ford and the troupe that had toured the Soviet Union.

At 3:30 p.m., he met with a group of handicapped persons to hear their needs and at 4 p.m. he went to the East Room, signed the political campaign financing reform bill and delivered a speech. In between appointments, the President received a request from Massachusetts for federal help in the Boston school violence and issued a statement about the matter.

Shortly before 5 p.m., he flew to Kansas City and that evening addressed the Future Farmers of America and the nation on his volunteer program against inflation.

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more Tidbits

The Heirs of Walter Lippmann

One of the real problems of the business of being a columnist is the slim factual basis on which most columns are written. Tom Braden, who has not been immune to this difficulty, recently demonstrated, however, how interesting a column can be when the columnist really has a story to tell, in this case about James Angleton:

Back in the late '40s he was the ideal choice for the counter-espionage work to which the late Frank Wisner assigned him. Painstaking, suspicious, quick to note deviations from the norm, he had the kind of mind one associates with the classic detective.

In addition, as those of us who were with him in CIA may recall, he had a capacity for empire-building. From the end of World War II until last week, he built his power within the agency to the point where he was virtually untouchable.

Successive directors, newly come to the pinnacle, were fascinated at their first encounter with this bespectacled, scholarly looking figure with the stooped shoulders, who walked cat-like into the office, and, when the door was closed, introduced himself with some startling and calculated revelation.

"I think you'll be interested in this," he would begin with a chuckle, and then proceed to tell his new boss exactly what his new boss's hostess had said about him after the new boss had departed her house on the previous evening.

Or he would show the new boss a copy of a private letter written by some employee or agent on the subject of the new boss. It was heady stuff, acquired by such means as the rest of us may imagine, but which only Angleton knew. A fly fisherman by hobby, he often referred to his knowledge of the personal and private as the result "of a little fishing."

With one director of CIA, himself a fly fisherman, Angleton established such rapport that the two talked of secret matters in terms of fly tying: "I caught it on a little brown bug with long antenna." Many people in CIA feared Angleton as much as successive directors held him in awe. . . .

But at some point in his long service, Jim Angleton's sharp and studious mind became confused by Jim Angleton's ideology. As the external world changed, as it became clear that Khrushchev's policies would not be those of Stalin, that the United States had won the cold war, that rumors of a Sino-Soviet split were true, Angleton found it difficult to straighten out in his own mind the agency's confused purpose.

Ideology told him the cold war must go on, that the Chinese and Russians were faking their feud, that the comings and goings of Aeroflot representatives to new nations revealed a Soviet intent on aggression in those nations, that those who had sold Mr. Nixon on detente were dupes and possibly knaves. He believed his ideology and shaped facts to fit it and his power became dangerous.

He is not the last of the ideologists to leave the agency but his departure will help CIA to straighten out its purpose: It is, after all a service, not a weapon in the cold war.

While one wishes that Braden had told us about Angleton several years ago, this is still genuinely fascinating material, much more interesting that the predictable pontificating that Braden and his fellow columnists usually turn out. One reason they have so little interesting information to give us is that they simply don't have time to dig it up. There's time for a luncheon conversation, a few phone calls and then the day's 700 words must be ground out. Too often there's no fresh research at all; the columnists rely on their memories, which unfortunately are often faulty.

Thus Gary Wills in one recent week wasted his readers' time with an attack on John Kennedy for having failed to offer to remove our Turkish missiles during the Cuban missile crisis—in fact, Robert Kennedy told Dobrynin we would remove both our Turkish and Italian missiles—and an attack on Harry Truman for having started the imperial presidency in April 1948 with the "non-political" campaign train. In fact many presidents had used grand trains before, and Roosevelt, in September 1940, had used the nonpolitical campaign train.

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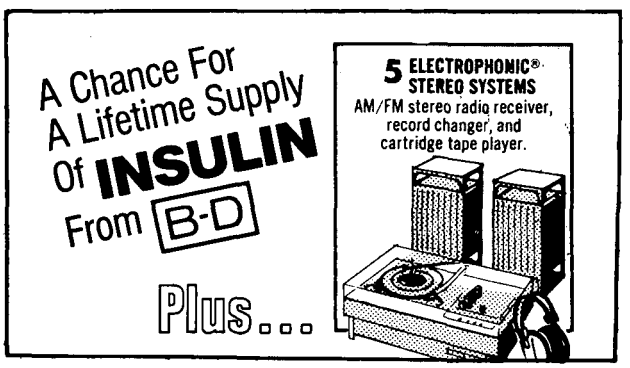
and Outrages

Only One Winner

Here's a contest sponsored by Becton, Dickinson and Company: "A Chance for a Lifetime Supply of INSULIN from B-D." While slipping into their diabetic comas, runners-up can enjoy five Electrophonic stereo systems, 30 Argus movie cameras, 65 Oster Super Pan buffet/cooker/servers, 115 Copal digital alarm clocks, and 500 "Diabetic Gourmet" cookbooks.



Eating Well

Everyone has heard that the middleman is making the money in the food industry. Now Jaime Friedman of *The National Observer* gives us the proof: Del Monte profits up 49 per cent, Safeway up 95 per cent, and Iowa Beef Processors, the leading beef company, up 195 per cent. The middleman's share of the price for white flour went up 68 per cent, for sugar 300 per cent, and for dried beans, 400 per cent. The Department of Agriculture, estimates that the middleman's share has caused four-fifths of the increase in food prices during the past year.

Is It True What They Say About Conservatives?

In his new book, *Dear America*, Karl Hess, a former speechwriter for Barry Goldwater, describes his switch from the Right to the Left and proves that the change has not affected his objectivity:

Life on the right was competitive in the very worst sense. People jealously protected position and privilege. Secrecy and self-serving pretenses were simply the way people related. The ideologues with the sweatiest brow and the most fevered speech, the crusaders for the light, were all of them as brownnosing and self-seeking as any junior corporate executive when it came to jobs, incomes, rising up the ladder of success and maintaining their own prideful positions. It is, I am sure, one reason that the right will never successfully develop a way of talking to and with people about earthy matters. Its own ideologues are not with the people generally, they are simply job holders looking for bigger houses, better cars, and a secure retirement. . . .

When groups on the right such as Young Americans for Freedom decide to take an action, they beat the billionaire bushes for heavy money, insisting on a proper office, a staff of secretaries, expense accounts, and ample salaries before their crusade takes flight. They are careerists, simply and only. When young people on the left, typically, decide to take action they simply take it—because they believe in it, with what they have on hand and with no thought of anything beyond the work at hand. . . .

My point is not that everyone on the left is good and kind and pure of heart. It is that I have found many who are just that. On the right, I didn't.

There is even a contrast in personal conduct which is striking to me because it is such sharp contrast. On the right there is an almost universal saturation with booze and promiscuity. . . .

People on the left are hardly prudes but, and again I swear this to be impressively true, I have never heard women discussed as sexual trade goods. . . .

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Maybe it's because we began about seven years ago mostly as a journal of contemporary music.

Maybe it's because practically everybody in the music business carries that latest issue around.

Maybe it's because we have a tabloid newsprint format like an underground newspaper.

Whatever the reason, at least several million prospective readers—probably including you—have the wrong idea about ROLLING STONE!

We think it's about time you found out that ROLLING STONE is *much much more* than just a music magazine and *miles above the underground*. It's a bi-weekly trip to the head, heart, and soul of contemporary America.

We're pioneering in a new kind of journalism, as different from the establishment press as the Electric Light Orchestra is from Lawrence Welk. It's intensely personal . . . frankly biased . . . endlessly curious . . . sensibly paranoid . . . totally irreverent.

We're printing stuff the uptight hidebound establishment press is neglecting, overlooking, avoiding, misunderstanding, or laundering. But it's so first-rate that we're beginning to attract readers over 30 who don't own a record player! Here's a glimpse of what you've been missing . . .

Tom Wolfe's extraordinary Collective Unspoken monologue of the Astronauts' Remorse.

Inside Norman Mailer — via taped interview with a budding novelist who is his friend and sparring partner.

Hunter S. Thompson takes his celebrated "fear and loathing" from Las Vegas and the Campaign Trail to the Superbowl and Watergate.

Jane Fonda's recent visit to devastated North Vietnam and Viet Cong territory.

The case against Kissinger.

An exclusive interview with Daniel Ellsberg, who explained his life in secret government, his decision to leak the Pentagon Papers, and Nixon's obsession with destroying him.

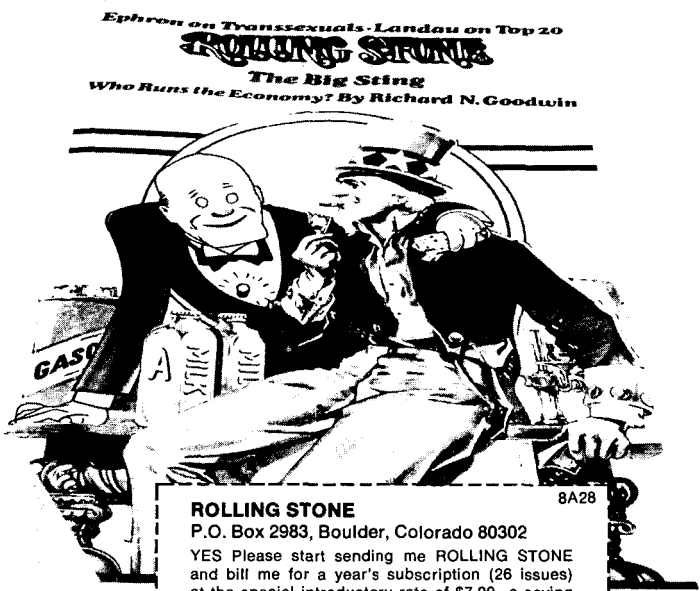
Joe Eszterhas's feverish nightmare report on the raunchy mob gathered at Snake River Canyon for Evel Knievel's (not quite) jump to the other side.

Richard Goodwin's proposals for dismantling the presidency.

Mrs. Brown's greatest hits — some 400 compositions dictated to her by the spirits of 15 late composers.

Don't just stand there. Mail the reply card for a year's subscription (26 issues) at the special introductory saving shown. Then if the first issue doesn't turn you on, you can drop out just by dropping us a line.

Why is ROLLING STONE the most misunderstood magazine in America?



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ROLLING STONE

Read what they're saying about us:

"It has spoken for –and to–an entire generation of young Americans."

Columbia Journalism Review

The New York Times

It is generally agreed that Rolling Stone has published some remarkably good reportage. In 1971, its investigative pieces... won it a National Magazine Award, 'for freshness of presentation and effective formula-free group journalism. The judges particularly admired the integrity and courage of the magazine in presenting material that challenged many of the shared attitudes of its readers,' the citation said. *Oct. 22, 1973*

Newsweek

Seven years ago, with offhand chutzpa, a brash new tabloid called Rolling Stone swaggered out of a borrowed loft in San Francisco, speaking in counter-culture jargon and bankrolled by $7,500 of debt. Staffed by inexperienced volunteers well on the sunny side of the generation gap and edited by a 20-year-old Berkeley dropout, the rock paper was not exactly aimed at Establishment heavies. Yet today, however, improbably, Rolling Stone numbers among its devotees such influentials as Indiana Congressman John Brademas, humorist Art Buchwald and New York Times managing editor A. M. Rosenthal. And at least one recent article, says CBS correspondent Dan Rather admiringly, "makes me wonder where I've been as a journalist."

What turns them on is Stone's growing – if rigorously idiosyncratic – interest in real life as it is lived by real folks over 30.

The tabloid's meaty background pieces on G. Gordon Liddy and John Dean, for example, predated most of those in the above-ground media. More recently, an embarrassingly detailed Timothy Crouse piece on the Ervin committee's infighting so angered Sen. Sam Ervin that an aide was fired for leaking.

Rolling Stone's space and liberty have attracted Truman Capote, Tom Wolfe, Anthony Burgess, William Burroughs and Charlotte Curtis. It has also bred such in-house stars as Joe Eszterhas (whose scoop about a futile California drug raid that left one young man dead led to the arrest of a Federal narcotics agent) and Tim Crouse, author of 1973's pioneering book on campaign coverage, "The Boys on the Bus." There is also the unstoppable Dr. Hunter Thompson, who has made a profession of Fearing and Loathing (on the Campaign Trail, in Las Vegas, at Watergate, at the Super Bowl). *Mar. 18, 1974*

"One of the most influential journals of the day."

Publishers Weekly

Time

What started as the bible of rock, operating on loans, credit and optimism, has become the West Coast's major purveyor of the New Journalism. Along the way, Stone has become solvent and earned the trade's respect. *July 16, 1973*

Parade

Rolling Stone has so thoroughly established itself within the overground that it is now seen being read on commuter trains and in barber shops. As American as baseball. *Oct. 7, 1973*

Chicago Daily News/Panorama

Rolling Stone's readers are clustered in the affluent front lines of the privileged American youth. *Feb. 23, 1974*

Bright, exciting professionalism (none of that underground-press sloppy-cutesy stuff): solid reporting, in-depth interviews, handsome graphics and photographs, lively writing and, most important of all, relevance and responsibility. *June 6, 1970*

Boston Globe

The only valid and, if you will forgive a disgusting word, relevant new periodical to have appeared in this country in a decade. *Jan., 1972*

No list of periodicals with their own individuality, their own voice, would mean anything if it failed to include Rolling Stone. *Nov. 10, 1973*

Has become one of the most enterprising, alert and imaginative of all periodicals. *May 22, 1971*

New York Magazine

Rolling Stone is a smart magazine; it knows what it is about. *Oct. 22, 1973*

"The most exciting American magazine to have come along in years."

Boston Globe

Columbia Journalism Review

In a very real sense, it has spoken for – and to – an entire generation of young Americans. It has given an honest – and searching – account of one of the deepest social revolutions of our times. Rolling Stone is one of the latter-day wonders of American Journalism. *Feb., 1974*

Publishers Weekly

Rolling Stone is now, amazingly, six years old and could be considered one of the most influential journals of the day with its great effect on young readers. *Dec. 10, 1973*

You can get Rolling Stone for only 27¢ an issue

on this special introductory offer

Send no money. Just mail coupon or bound-in postpaid reply card.

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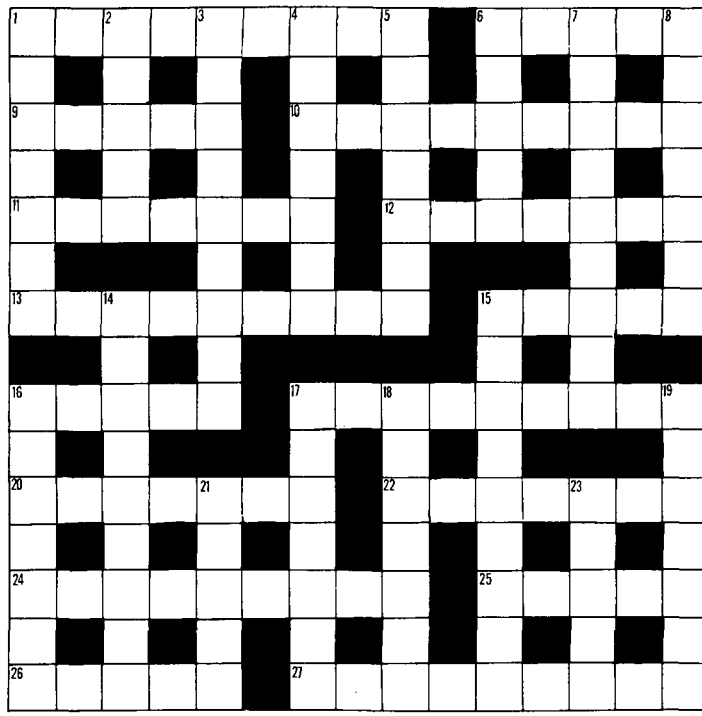
the political puzzle

by John Barclay



Across

1. Signal for those looking for something to do is 2-4. OK? (3, 2, 4)
6. Where the soldiers opted to keep supplies. (5)
9. City where I saw you last night. (5)
10. Would Nader bile rise if economy came to this? (5-4)
11. What hot potato makes you want to get? (3, 2, 2)
12. Tenants find direction in bottom of wine bottle. (7)
13. Courts where one may get dew on limb (9)
15. To Acheson and Rusk from Snead. (5)
16. Why turn down the smallest? (5)
17. If I got in with front-runners, they would keep others quiet. (9)
20. Convention city with fashionable past. (7)
22. Forgiveness tames New York outcry. (7)
24. Trenchermen, of course, but all of us, too. (9)
25. To get out of it, put notice in the night before. (5)
26. Move with fifty in team. (5)
27. Things slowing down about 100 mixed-up noises. (9)

Down

1. Best Herblock or anyone else in the audience? (7)
2. In effect, laid on the floor until educated. (5)
3. With fly leaf, you are moving ahead very cautiously. (9)
4. As it went around it bored me. (7)
5. Mr. Klein has direct line to Mr. Ford. (7)
6. They are no longer found in Brando-Dos Passos films. (5)
7. Rape merit hit new high in 1974. (5, 4)
8. Revelation belief sets this group apart. (7)
14. Noted, noted mine. (9)
15. Postpones with internal objective to rally supporters. (9)
16. Gets ready to fire SEC cork. (7)
17. First individual in the dock? (7)
18. The girl in 199 is a prime example. (7)
19. American food resource leads by a nose. (7)
21. We go in to call Lincoln in a friendly manner and go too far. (5)
23. UN man takes most of the lilacs back. (5)

The numbers following the clues indicate the number of letters and words, e.g., (2, 3) means a two-letter word followed by a three-letter word. Groups of letters, e.g., USA, are treated as one word.

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Getting to Know Your Congressman: The $500 Understanding

by Arthur Levine

As the new Congress gets underway, one senses a strange, persistent conviction in the air that an era of clean politics is at hand. The 103 fresh faces on Capitol Hill are younger, more "open" than those they replaced. They are the visible results of the Wrath of the Public which was visited upon politicians of the old order; and as such, they naturally set their jaws a bit more firmly when they hear sentiments like those of David Cohen, executive vice president of Common Cause. "People are waking up," he said recently. "There won't be any more free rides for special interest groups."

As a public service to our new legislators, and as a cautionary reminder to the elder members of the 94th Congress, we offer this tale of the closing days of the 93rd. Because of the understandable human reluctance to learn from the mistakes of one's predecessor, it should be pointed out that 1) the following events took place after Watergate and the passage of the Campaign Reform Act, and 2) the leading characters were not crass and soulless lame ducks, doing their worst after the election returns were in, but instead, were solid citizens of the U. S. Congress who at this very moment are guiding our destiny.

Rushing to beat the adjournment deadline, the 93rd Congress did not get a tax reform bill passed, but it did manage to reward three major special interest groups—maritime unions, dairy co-ops and trucking firms—with a series of boondoggles that could have cost taxpayers and consumers several billion dollars. Moreover, one provision—for increased truck weights—is likely to lead to more highway fatalities, as well as greater damage to roads and bridges. None of the bills met strong opposition, except during the final Senate debate on the maritime tanker preference act. President Ford, on one of his more effective days in office, pocket-vetoed two of the bills—the tanker preference act and increased milk price supports. While the President's use of the veto has often protected the nation from the greed of the crippled, the veteran, and the jobless, this time his concern about inflation was justified. To judge by its actions, Congress was less concerned about inflation than about redressing the terrible grievances reported by the truckers, dairymen, and merchant marine. For their part, the

Arthur Levine is an editor of The Washington Monthly.

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public interest groups were ineffective, at times apathetic, in their opposition to the legislation. "We had other priorities," concedes Cohen.

What distinguishes this story from the standard money-in-politics parable is that the style has dramatically changed. Reporters looking for the big fix will be disappointed; no cigar-smoking lobbyists are scurrying about delivering satchels of cash. Today's lobbyists bring not only an appropriately disclosed campaign contribution but, almost as welcome, plausible arguments and back-up data as well. They are not *buying* congressmen with their money—they are only buying *access*, which can turn out to be just as important. With their access, they are able to tell their side of the story, and, all too often, that is the only version that the congressman will hear in any detail. Of course, he may listen to the opposition's arguments on the floor, but he has already seen those same arguments punctured with persuasive grace in the privacy of his office, or during a leisurely dinner conversation. For each bill that will enrich a particular group by millions of dollars, there are several seemingly valid reasons available for supporting it. No such legislation can make it through committee and floor debates without an elaborately constructed case demonstrating its contribution to the national interest. An observer of the process comes away with a certain grudging respect for the inventiveness of some lobbyists and legislators. So, if a group is willing to spend the time and money, it can get just about what it wants.

Milk Train

Take a look at legislation supported by the dairy co-ops, groups which have received some publicity because of their strong support of the Nixon and Humphrey campaigns. In the last two days of Congress, a bill raising milk price-support payments was rushed through. As was the case with other gravy-train items, the sponsors of this bill tastefully refrained from pushing it until the end of the session. The bill was introduced by Senator Hubert Humphrey, whose former campaign manager was indicted the following week for arranging an illegal contribution from milk producers to the Senator's 1970 Senate race. The bill raises support payments for milk to 85 per cent of parity—a complicated figure which is not worth explaining except to say that this is the highest support level for any commodity. The direct cost of the bill, for government purchases of surplus dairy products, would be $400 million, and the total cost to consumers, through government spending and higher retail prices, was estimated at up to $1 billion a year.

When this bill came to the floor of the Senate, it was debated for all of four minutes and then passed by an unrecorded voice vote. There was no opposition. In the House, after a brief debate, the bill passed by 205 to 50. Among the champions of clean government who supported the legislation in the House were Democrats Shirley Chisholm, Ronald Dellums, Phillip Burton, Herman Badillo, John Brademas, Morris Udall, and Barbara Jordan. Although they were understandably not eager to comment on their votes, a few of their aides attempted to explain their actions. An aide to Dellums remarked, "Did he vote for *that*? Christ, he probably came on the floor and said, 'Aw hell, it's late in the session, I'll see how other people are voting.' I'll tell you this, we aren't going to be voting for it when it comes up again." A Badillo staffer explained, "In the last few days, there are some crazy votes, because a guy will just see what others in his delegation are doing." The others in the delegation tended to support the milk legislation, partly because major public interest groups, Common Cause and Nader's Public Citizen, took no action regarding the bill.

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My name is Tony Jones. I just quit my job as Associate Editor of Harper's Magazine because I had an offer I couldn't refuse.

You see, for some time now I've been hoping to start an entirely new kind of publication. Now the opportunity is here—*if* I can persuade you to help me make the most of it.

No, not by subscribing. I need writers. Researchers. Editors.

Requirements: You are on your own.

And by you, I mean *you*. The new publication I'm asking you to help get started will be produced by its readers. By you, I hope.

As a matter of fact, the whole idea hinges on whether or not you contribute. Let me give you some background:

I was proud to work on Harper's Magazine, and I worked hard on it, but Harper's and other top magazines are committed to publishing the "best" writers in the world. This is understandable. And I agree we need this kind of source.

But this policy locks out communication of another, and in my opinion just as necessary, sort—different, honest, independent messages from the great numbers of intelligent and involved men and women who don't happen to be writers who know editors.

I want to offer a variety of communications from real people about just about anything. Short and pithy. Or longer if it plays that way. I'd have more by-lines than any other publication in the world. *If* my readers really did contribute.

In a real sense, this communication would be a collection of points of view. A swatch of our consciousness. An ongoing biopsy of our civilization.

When I announced my intention to Russell Barnard, the publisher of Harper's, he pledged that if I could actually develop the kind of magazine I wanted, he would publish it.

So I've decided to revive the famous HARPER'S WEEKLY, a national newspaper that flourished concurrently with the monthly Harper's Magazine from 1857 to 1916.

The people who ran that old weekly had the temerity to call it "a journal of civilization." Well, that is exactly what I have in mind for the new Harper's Weekly.

I want *you*, its reader, to write for it. I want you to write about your point of view from where you are. If you are a businessman and you want to talk about business, go ahead. If you are a housewife and you want to write about the effects of permissiveness on children, I think you are highly qualified. If you are a doctor who wants to pick up a pen and write a piece on your secret desire to become a hod carrier, I think it would be interesting.

Do you see it? A magazine containing people's thoughts and shouts. A kind of extended variant of the Op-Ed page of The New York Times, the letters to the editors of all times, hubbubby, and reflective of our civilization.

Frankly, many "experts" say Harper's Weekly doesn't have a chance. Reason? That you won't believe that I really mean what I say about *you* writing for it or researching for it.

Friend, I not only mean it, I mean it so much that *my* main worry about this enterprise is that you *won't* contribute.

I believe we need more exchange. We need more men and women of letters. People who can sit down and think something through and then write about it—not necessarily for posterity but to get the rest of us *thinking*.

Look, I'm also going to go out and buttonhole a person I think we should hear from who may not be a subscriber. And ask him to write. And I'm thinking of challenging some young artists to see if they can do as well with cartoons as old Thomas Nast did. I reserve rights like that. But once again, reader friend, the nub of the magazine will be your contributions, clips, original writing, or responses to other writing.

I've always felt it was a distinctly American trait that we *had* something to say. All of us. And that we couldn't be scared off or even bored off from saying it.

That when it came right down to it, we stood up and spoke our minds and left it at: "That's my opinion, bub."

I believe this is still true. And I love it about us. As for the reading, I believe we have a genuine and unfulfilled hunger to talk to each other.

O.K. If you're interested, you can help us in any of 3 ways.

1. *Do research for us.* As an active reader, you no doubt scan a wide variety of publications such as your local newspaper, specialized newsletters, professional, literary and political journals. Clip and send us items you think deserve attention. For each item we use, you'll receive a credit line and a research fee of $10.

2. *Write for us,* especially about things in your immediate experience that deserve sharing. Published contributions will carry your name and hometown, and you will receive an honorarium of $25.

3. *Support Harper's Weekly.* Take a subscription. Twenty-four issues for $6.

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The dairy co-ops have long been aware of the degree to which money talks in politics. In 1974 the three major co-ops spent $270,000, gladdening the hearts of 49 incumbent House members and 11 senators.

Big Rigs

The truckers' story, an exciting tale involving axle weights and a group called TON and culminating with passage of a bill allowing heavier trucks on our interstate highways, provides a clearer lesson of the fruits of determined lobbying and legislative skill. During six years of efforts by the trucking lobby, Congress had stubbornly refused to raise the ceiling on the weight of trucks permitted on interstate highways. Again, in August 1974, the House voted 252 to 159 to delete a section of the Federal Mass Transportation Act which would have raised maximum gross weights, from 73,280 to 90,000 pounds. Weight increases were opposed by the National Association of Counties, the National Transportation Safety Board, the Department of Transportation's National Highway Safety Advisory Committee, the Teamsters, the Professional Drivers' Council, the American Automobile Association, and the National Association of Professional Engineers. And yet, when members of the 93rd Congress packed up for their Christmas vacation, the provision had passed both houses of Congress.

How did it happen?

First of all, the opposition groups were weak and disorganized, marked more by a ritualistic desire to express their opinions than by a firm commitment to block the weight increase. A few letters were written, some testimony prepared, but little real effort was devoted to attracting public attention or winning over legislators. The proposal received virtually no press coverage until shortly before the final vote, when an article appeared on the editorial page of *The Wall Street Journal.* The guardians of the public interest were sleep-walking, but the trucking industry was ready to work—and pay—for the legislation it wanted.

Ann Greenfield

After their August defeat, the trucking firms, led by the American Trucking Association (ATA), a federation of state trucking groups, launched a drive to gain Senate approval. "There was no great magic involved," says ATA vice president John Kinnaird, "just a lot of hard work." The lobbyists on Kinnaird's seven-member team were well-prepared for their visits to congressional offices. They argued that the 55-mile-per-hour speed limit was hurting productivity by cutting the distance that truckers can haul goods each day. They glossed over their critics' charges that heavier trucks would damage highways and lead to more accidents.

Little-noticed testimony by a variety of officials shows that safety factors, potential highway and bridge damage, and loopholes in the bill gave

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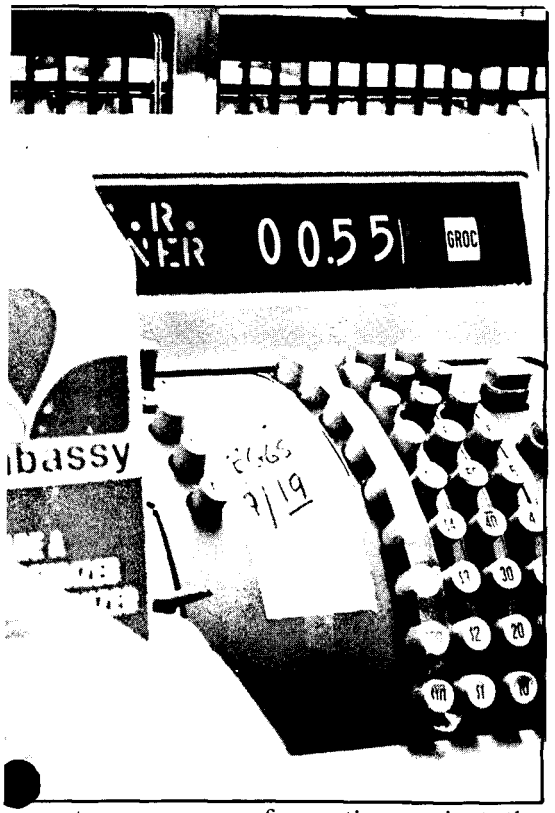

strong reasons for voting against the legislation. The National Association of Counties, whose member governments pay for highway repairs, estimates that increased weights would add at least $3 billion a year to maintenance costs for interstate, primary, and secondary highways, not to mention projected damages to thousands of bridges that won't be able to take the added weight.

But the main problem with weight increases is the danger to auto drivers, already frightened by the possibility of big rigs blowing them off the road. Data studied by federal safety experts shows that for each truck driver killed in a truck-car collision, there are 31 other people—car drivers, their passengers, pedestrians—who die. A fatality is ten times more likely to occur when a car and a truck collide than in a crash between two cars. The new bill also contains a loophole that could raise the weight limit even further. This loophole provides that if state laws allow heavier trucks to travel on state-controlled roads than the federal law permits on interstates, then the federal law would bow to the state and allow the super-trucks on interstate highways.

The drivers—including the Teamsters, the Professional Drivers' Council for Safety and Health, and many independents—are opposed to the weight increases. But industry pressure has prompted both the Nixon and Ford Administrations to advocate increases.

Spreading the Wealth

And when it came to dealing with Congress, the truck owners had another string to their bow. Their arguments were buttressed by over $17,000 given to the campaigns of ten senators, with some of the contributions after a pro-trucker Senate vote on September 11. That's not much money compared to some other groups, but it helps. Final contribution totals were not available by press time because donations made in the 12 days before the election don't have to be disclosed until January 31. But preliminary figures indicate that American Trucking Association favorites included Warren Magnuson, chairman of the Senate Commerce Committee—$5,000; Mike Gravel, fourth-ranking Democrat on the Public Works Committee—$2,000; Birch Bayh—$1,000; and Robert Dole—$2,000. In addition, the ATA hosted annual dinners for Public Works and Commerce committee members in both houses of Congress.

The legislative showdown began in September, when the Senate Public Works Committee split on a weight increase amendment by a close 7 to 5 vote. The opponents were all Republicans, led by Robert Stafford of Vermont. Stafford carried his fight to the floor, where he lost his effort to delete the increase from a highway bill by an even larger margin, 59 to 24. Guard explains, "It's hard to go against a committee report, especially when the other senators don't know

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much about the subject." What's also significant here is that it was a conservative Republican—not some liberal, clean-government standard-bearer—who took the leadership against the cruder forms of special-interest bills. Among the good guys who supported the increase in truck weights were Senators George McGovern, Frank Church, Walter Mondale, and Lee Metcalf. McGovern, for one, claims he voted his constituency: "My state relies heavily on trucking, and this bill will lead to greater economy of operation."

The Senate did, however, pass a safety provision amendment, supported by the Teamsters, that would have limited the weight on the crucial steering axle of tractor-trailers. Without such a limit, according to safety engineers, the danger of front tire failure and jack-knifing is increased. This amendment, offered by Senator Philip Hart, won additional support for the weight increase by calming the safety fears of many senators. But in the House-Senate conference, the Hart amendment, the crucial sweetner for many senators, was simply dropped.

The ATA's success in the Senate renewed its hopes for House action. The focus of the trucking effort was on pre-election spending to win House members to their side. In a flurry of generosity, the ATA's political arm, the Truck Operators Nonpartisan Committee (TON), gave last-minute contributions to 117 House members. TON gave the money after October 24, guaranteeing that it would not be disclosed until after the election. TON refused to disclose the amount of those last-minute contributions until January 31. As of late October, Common Cause reports, TON had spent $66,300. Of the House members who received TON gifts, nearly 100 voted for the highway bill that contained the controversial provision.

Thirteen members of the House Transportation subcommittee that formulated the legislation received TON gifts. TON also spent money on eight other members of the full Public Works Committee, on party leaders Tip O'Neill and John Rhodes, and on seven members of the House Rules Committee, which clears bills moving onto the House floor. The leader of the House weight-increase effort was Democrat James Wright, who received $1,000 from TON at an appreciation dinner in 1973.

The Old Razzle-Dazzle

What the truckers wanted for their money was a House bill that didn't contain any reference to truck weights. Why? Because they were counting on the conference committee to use the Senate version, which had a section raising truck weights. What truckers feared most was an amendment forbidding weight hikes, because the House had firmly rejected an increase back in August, when it was part of a mass transit bill. So the goal was to prevent the House from voting directly on increases. Their friends on the House Public Works Committee were more than glad to help.

The truck lobby's main opponent was Rep. Edward Koch, who was pushing an amendment preventing further increases. Through a series of parliamentary tricks, House trucking supporters outmaneuvered Koch. House members (including liberals like Bella Abzug) blocked every effort by Koch for a record vote on the increases. The legislative trickery took place even though Koch explained the scenario to his colleagues before it occurred. Here's what happened:

The public works committee reported out a highway bill which said nothing at all about trucking. The bill was brought out under a special arrangement—a suspension of the rules—that prevents amendments from being offered. Legislation considered under a suspended rule needs a two-thirds majority to pass. When the time came to vote on the bill, Koch asked for a record vote—which would

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have forced every member to declare his position—but not enough of his colleagues stood up to support his request. So the bill passed by a voice vote, the identities of its supporters forever unknown.

After the bill passed, Koch had one last chance to prevent a weight increase. Koch was justifiably afraid that the weight hike would be added to the highway bill in the House-Senate conference. To prevent this from happening, Koch tried to offer a "motion-to-instruct" to tell the conferees to oppose weight increases. But since only one motion-to-instruct is allowed per item of legislation, Koch was afraid that his motion would be preempted by one offered by another congressman. To forestall this, Koch had to make sure that he would have the first opportunity to offer such a motion. The floor manager of the bill, Jim Wright, promised him, "I am not going to make any such motion and am not presently aware that any other member of the committee has a motion to instruct the conferees." Shortly afterward, when he tried to introduce the motion, Speaker Carl Albert told him that it was "premature." Then Albert, using a technicality, turned around and recognized a Public Works Committee member, William Harsha, who offered his own motion-to-instruct. It blandly requested the conferees to insist on a rural highway provision, which they were going to do anyway, and the House backed it up. It was all carefully orchestrated. At the end of the debate, Koch tried to get the House to vote down the Harsha motion, but he failed.

The next day, December 17, the conferees met, gutted the Hart safety provision, and adopted the weight increase. An American Automobile Association lobbyist complains, "We didn't have reaction time. There was a flurry of activity, and the truck faction held the bill long enough to put it in the windmill with ten or 15 other bills."

When the conference report came up for a vote the next day, legislators were faced with one of those hopelessly complicated packages that often prevent clear votes on issues. The bill contained the weight increase, but it also contained multi-million-dollar authorizations for highway construction and a 55-mile-per-hour speed limit. The final vote in favor of the package was 307 to 67.

Back in August, House Public Works members Bella Abzug, Yvonne Burke, David Henderson, Wilmer Mizell, M. G. Snyder, and William Walsh had voted with Koch when the vote was solely to delete truck increases from a mass transit bill. In December, they switched and voted for the highway bill, since no amendments could be offered. Abzug explains, "New York City is desperate for funds, and I wasn't going to kill the bill on account of the trucks. The cost of any highway damage is *de minimus*."

The success of the ATA—and its friends in Congress—prompts the association's Kinnaird to say, "A lot of people think there's a stigma to lobbying, but that's the way our government works. You petition Congress. You go see your congressman and tell him your problems."

Kinnaird also has his own view on the impact of money. "We don't win legislative battles by contributions," he says. "We had a little bit of money left [$104,000 as of October 24], and we gave it to some of our friends. But our lobbying is predicated on fact." In part, he is right, because the money, when added to persistence and plausibility and charm, makes an effective case—especially when there is no countervailing force.

Sleeping Watchdogs

The lack of effective public interest lobbying is crucial to the success of boondoggle legislation. "The pressure really comes from those whose interests are affected positively by legislation," says David Cohen of Common Cause. "The opposition isn't articulated. We had the campaign

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reform law to work on, and Nader had the Consumer Protection Agency. The weight increase wasn't a major public issue, it wasn't high on anybody's list—except the truckers'." But public interest groups like Common Cause are not using their resources very effectively. Although there is a valid concern about spreading themselves too thin, there is still a need for constant monitoring of venal and unnecessary legislation. For example, Common Cause has a $6-million budget, but spends only $97,000 for the salaries and fees of its lobbyists. Given its millions of dollars of resources, it is unfortunate that a well-intentioned group like Common Cause isn't more systematic and thorough in its watchdog role.

Congress has many good men who want to do the right thing, but find it easier not to. They are pressed for time, busied with meetings and office work, and when the bells start ringing for another floor vote, they hurry over to vote on bills they often don't know much about. They will check what the leadership is doing, talk with their colleagues, and, if no one really cares, they may end up supporting a wasteful or foolish bill.

Since many legislators respect the opinions of the public interest groups, phone calls and visits on key legislation could have a major impact. Just a telegram from Common Cause on truck weights to a Frank Church or a John Brademas might help to swing their votes around.

Within this world of decent men and reasonable decisions, very few people view the special interest money paid to congressmen as a bribe. Instead, it merely purchases the opportunity to explain a point of view, and at a discount price. In fact, the small check is preferable to the big one, because it avoids the taint of corruption, while accomplishing the same end: winning congressional support. A liberal with any sense about appearances would reject a $20,000 contribution from a trucking firm, but a $500 donation would be welcomed. And without a countervailing force, the small donation in a political vacuum frequently tilts the balance in favor of the special-interest group simply by guaranteeing the special interest a chance to make its case. If there's no one presenting the other side, the congressman ends up being "bought" in a way which enables him to feel clean (he is, after all, acting on the merits of the argument), avoids charges of selling out, and gives the lobbies a bargain.

On the big issues, simple to grasp and popular with the national press, most liberals know how they should vote, and the corporate lobbyist has little influence. But on the less-publicized items, it is more comfortable to go along with colleagues. Still, each reasonable congressman has an inkling that something is wrong, and if there is a reason to vote against it—a signal of protest from Common Cause, a brief statement from Ralph Nader—the congressman will usually do so. He has enough respect for those groups, and concern for his own image, that he can be shamed easily by the faintest murmur of concern. The public stamp of disapproval can have a major impact.

Floating on Money

The trucking effort pales in comparison to the single-minded drive of the maritime unions and shipping industry for cargo preference legislation. The bill, vetoed by Ford, would have required that by 1977 30 per cent of all U.S. oil imports be transported in American-built and operated tankers. Only five per cent of imported oil is now carried in U.S.-flag ships. Although the bill was opposed by virtually every leading economist and government agency, the bill passed Congress by large margins, except in the final Senate vote, which was 44 to 40.

Supporters of the Energy Transportation Security Act of 1974 argue that the bill would have reduced dependence on foreign-flag carriers,

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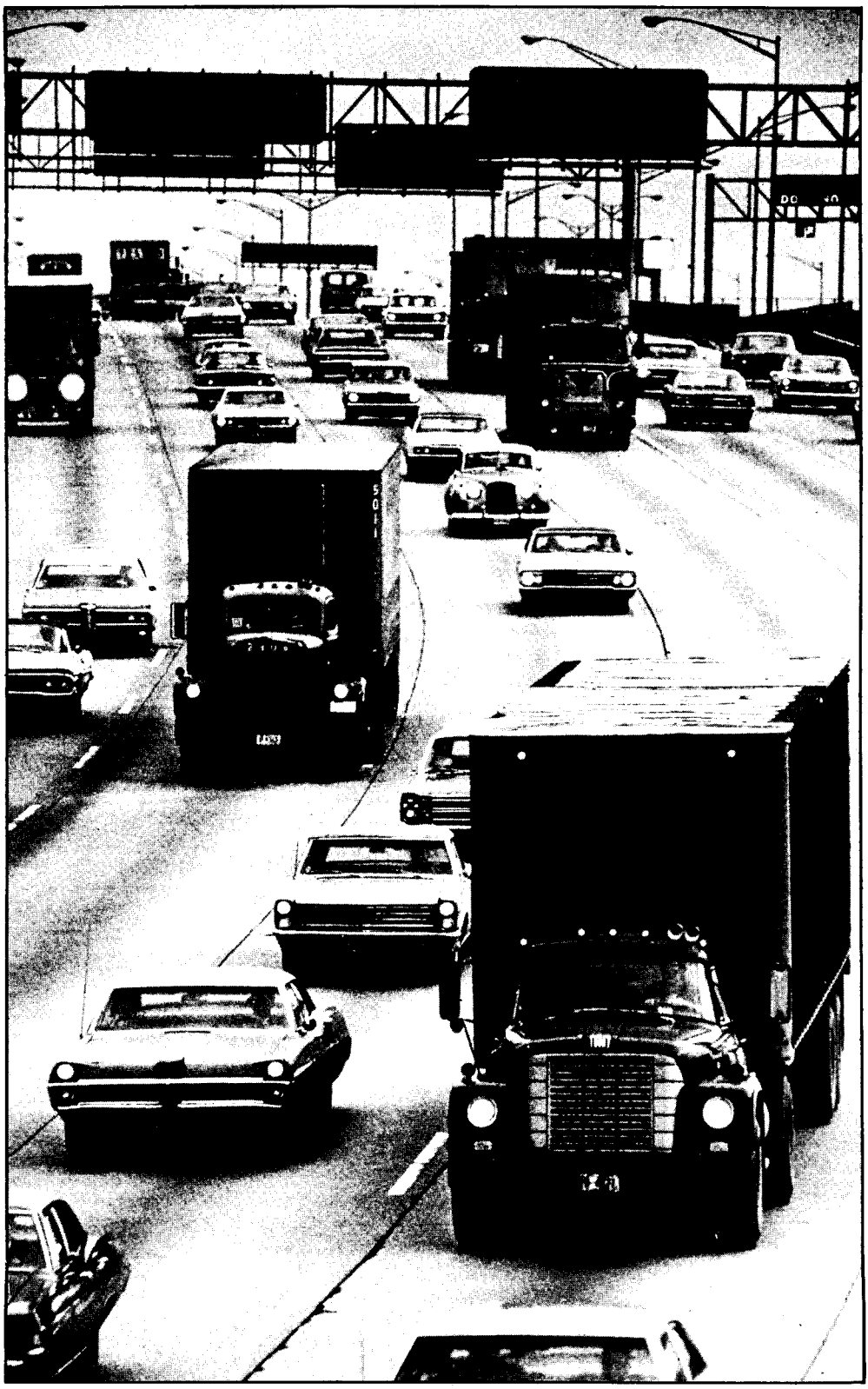

ATA photo

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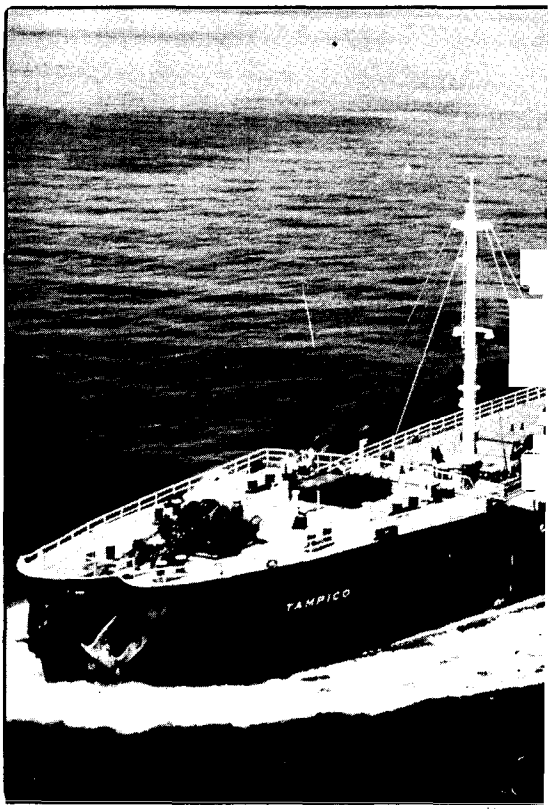
bolstered the nation's balance-of-payments position, protected the environment, created a fleet of modern tankers, and provided thousands of additional jobs.

Opponents, including the Departments of Defense, Commerce, and Transportation and the Federal Energy Administration, reply that the bill was far too costly and, in effect, was just another giveaway to an already heavily subsidized maritime industry. But the department heads expressed their opinions only when asked, and took few positive steps to stop the bill.

By creating a captive market for less-efficient American-flag tankers, the bill would have jacked up energy costs, far above their current level. Estimates of the cost to consumers vary from $20 billion to $60 billion over the next ten years, but all pointed to increased inflation. In direct subsidies from the government, the bill would have cost $800 million by 1980.

Maritime unions spent $617,000 last year on campaign contributions and loans to more than 175 senators and representatives. They were willing to spend so much because the pay-off rate, in continued public subsidies, can be so high. Since the passage of the Merchant Marine Act of 1970, the federal government has spent nearly $1 billion on ship construction subsidies, and operating subsidies now run about $252 million a year. Of a typical tanker crewman's pay of $13,800 a year, $10,350 comes from federal funds.

It's worth noting that shipyards are heavily backlogged and couldn't possibly build new tankers fast enough to meet the requirements of the bill Ford vetoed. The legislation would, therefore, have created a completely artificial demand for tankers. The Department of Commerce estimates that to meet the demands of the bill would require the building of 40 new tankers at a cost of $4 billion by 1977, draining private capital needed elsewhere.



Columnist George Will commented on the legislation, "The bill's charm, limited but real, is that it involves no damned nonsense about merit, just straightforward theft, almost admirably brazen, like armed robbery compared with embezzlement."

Helping Friends

The cornerstone of the bill's support, of course, is large-scale campaign contributions. Rep. Frank Clark is from a land-locked Pennsylvania district, but he is also chairman of the Maritime subcommittee that has voted $3.2 billion in maritime subsidies in the last ten years. He received at least $19,000 from the maritime lobby last year, which helped him win renomination (he lost the general election). In the primary, Clark overshadowed his opponent's efforts by plastering his district with 100,000 stickers, badges, and other items bearing Clark's name.

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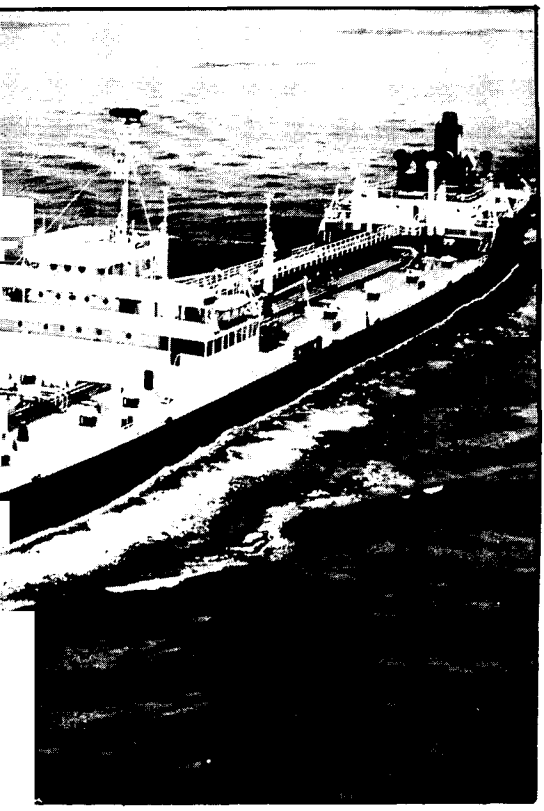

And he had enough money to pay $9,335 to as many as 550 "poll workers" in his district—or one paid worker for every 52 Clark votes cast in the primary. So when it came time for debate on the maritime bill, few were surprised to hear Clark say, "There is no longer any doubt that the United States requires a certain degree of self-sufficiency with respect to the ocean transportation of our vital oil imports."

Louisiana Senator Russell Long, the floor manager of the bill, got at least $20,000 from the maritime unions. During the Senate debate, he remarked, "There's nobody I'd rather have on my side than the Seafarers [International Union]."

The maritime unions also contributed to majority leader Tip O'Neill, who faced no opposition. A spokesman for O'Neill says that a $16,000 contribution was put into a fund for other congressional candidates and that O'Neill used only $1,500 of it, to pay for two newsletters. The spokesman seemed to portray this fund as some kind of selfless charitable work on O'Neill's part. In fact, the contributions serve to enhance O'Neill's power, since he determines who gets the money. Like Wilbur Mills, personal financial gain is not O'Neill's motive. There is, however, an unstated debt to those who help him expand his power.

The leading maritime contributors are the Seafarers' International Union, the Marine Engineers Beneficial Association, and the National Maritime Union. Their spending aided a large number of candidates. An earlier article in this magazine demonstrated how the Seafarers stock their campaign kitty with funds squeezed out of foreign seamen eager to work on the higher-paying American ships. The foreign sailors are virtually forced to give up one third of their pay—but the recipients of maritime union funds don't seem to mind.

Alaska Senator Mike Gravel did especially well, getting $21,000 in donations and a $25,000 loan. He vigorously defends his vote for the maritime bill, saying, "We must not let the most vital part of the oil trade—transportation—fall into foreign hands." Because of his vote two years ago for a similar bill, he notes, "I was able to hit the Marine Engineers up for a $25,000 loan." When asked if the money might have influenced his vote, he responds, "Hell, no!" and adds modestly, "I had interests they found to their liking."

The latest available figures also show that Senators Alan Cranston received $14,500, Howard Metzenbaum got $13,000 and Warren Magnuson received $12,900. Charles McC. Mathias' share was more than $19,000. A few senators and congressmen who voted *against* the bill were on the contribution list—for example, Senator Jacob Javits, who returned $850 to the Maritime Engineers two days before the September vote. Of those who voted against the bill, 22 got a total of $28,400, of which

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nearly half had been returned by the candidates who received it. By returning the money, Javits, like the 12 others who returned milk funds, confirms, in effect, the quid pro quo assumptions of campaign contributors. Or, as an aide to one representative who voted for the bill, yet returned the money, put it, "We didn't need it. It smacked too much of a pay-off."

Others were not so selective. In the period between September 1 and October 24, before and after the initial Senate vote, the unions gave several large gifts, including $14,500 to Mathias, $11,000 to McGovern, $8,500 to Gravel, and $12,000 to Adlai Stevenson III. The House floor manager, Lenore Sullivan, received a $5,500 donation. In the same period, Richard Schweiker, Birch Bayh and Herman Talmadge all got $5,000 each.

As in the trucking debate, the leading opponents of the maritime bill were conservative Republicans like Carl Curtis and Norris Cotton. Unfortunately, their record as anti-union reactionaries made them less than ideal champions of the crusade against waste.

On the House side, liberals who backed the bill include Ronald Dellums (once again), Bella Abzug, Morris Udall, and Democratic Caucus chairman Phillip Burton. An aide to Dellums explained, "I can assure you that Ron wouldn't sponsor this kind of legislation on my recommendation. There was no staff input. He supported it because Burton asked him to." Abzug's reason was clear: "I've always voted for jobs for American seamen." Udall, Burton, and Abzug each got $1,000 from the Maritime Engineers, and Dellums got $500.

The vote for the maritime bill, one of the most economically misguided pieces of legislation ever to come up for a vote, illustrates the selectivity of liberal vision. A union can be just as greedy, parochial, and self-serving as any corporation in requesting favors, but because a union is involved, the transaction is lifted to a higher moral plane. If Lockheed Aircraft asked for the same kind of direct and indirect subsidies as the shipbuilders, the liberal activists would not be so quick to defend the request on grounds of national security or full employment. Moreover, a traditional liberal group like the Americans for Democratic Action, in compiling its ratings, often overlooks this sort of special-interest bill, concentrating instead on issues like the Lockheed bail-out. So this year, of the three senators the ADA rated as 100-percent liberals, two (Adlai Stevenson III and Philip Hart) backed the maritime bill, while the other (Edmund Muskie) didn't. Several senators with near-perfect ratings, like James Abourezk, William Hathaway, Alan Cranston, and Walter Mondale, also supported the legislation.

The maritime act presented many liberals with a difficult moral choice. Opposing the legislation were the multi-national oil companies, the latest demon-figures to arrive on the scene. This enabled one of ADA's perfect liberals, Adlai Stevenson, to concoct a populist rationale for the bill: "I supported this bill because I represent American consumers, workers, and taxpayers, and oppose more oil industry rip-offs." That kind of thinking is based on the assumption that no matter what the oil companies want, it's automatically evil. It's an easy way to make hard decisions, but it can lead to legislative disasters.

The most conspicuous feature of the maritime lobbying was the virtual absence (again) of public-interest groups. Both Nader and Common Cause ignored the bill while it was up for debate, although they did write letters to the President asking for a veto after it had passed. Some observers said that the public interest groups did nothing because they had a higher legislative priority—passage of the Consumer Protection Act—for which they needed labor's support. Nader's top congressional lobbyist, Joan Claybrook, denies that charge and insists, "There are only so many people in our organization [five full-time lobbyists], and we weren't

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working on maritime issues." Common Cause, whose resources are much greater, offers a similar excuse.

A major turnaround in the Senate took place following a barrage of unfavorable publicity. The 42 to 28 vote for the bill in September was transformed into a close 44 to 40 vote in December. The ranks of the opposition were swelled in December by many September absentees. The bill wouldn't have passed unless five senators had agreed to take part in the highly unusual practice of "live pairing." This means that when a senator planning to vote one way on a bill is absent, another senator, planning to vote the opposite way, abstains from voting even though he is present. As may be imagined, a "live pair" is a subtle arrangement, and amounts to an enormous favor to the side that is absent. The "opposing" senators who abstained because of "live pairs" were Gaylord Nelson, Edward Kennedy, Gale McGee, Warren Huddleston, and Quentin Burdick —all Democrats, all opposed to the bill, but none willing to cast a vote to stop it. A Nelson aide, when told of his boss's move, said "Gee, that's strange, he hasn't done that in years! But I'm sure he must have had a good reason." The most common supposition is that the "live pairs" kept the five senators from irritating Russell Long by actually voting against the bill. However, Kennedy's "live pair" for an absent Senator John Tunney may not have been done as a favor to Long. Tunney, who received maritime money, is an old friend and former law school roommate of Kennedy.

Despite the veto, it's considered likely that a maritime bill will be introduced in the new Congress. A Republican staff member of the Senate Commerce Committee says that labor pressure for it will continue to be strong. Many of the newly elected legislators had labor backing, and they might find it as hard to resist AFL-CIO pressure as did their predecessors.

The passage of the milk, trucking and maritime bills demonstrates the persistent role of money in political life. And the kind of money needed to buy access is not so great that it would be thwarted by the new campaign reform act. As it concerns Congress, the law sets ceilings on candidate spending, as well as a limit on political contributions. Even assuming that it is obeyed, the law is hardly a deathblow to special interests. Organizations are limited to contributions of $5,000 in the primary and $5,000 in the general elections for each candidate. While that's not the kind of money Maurice Stans once extorted from corporations, it is still gratefully received by the average congressman or senator.

At first glance, it would seem that the check needed for access is a small part of a campaign costing thousands upon thousands of dollars, but it is enough to serve its function, a reminder of who one's friends are. In fact, a rough guideline used by some lobbyists in determining how much to pay for that precious access is $500 for a congressman and $1,000 for a senator. The scale rises, depending on such factors as how powerful or greedy or useful a legislator can be. Some of the large sums given for these three bills, however, seem to involve more than mere access. The maritime unions, for example, displayed a certain lack of taste in their excessive contributions. In any case, the money is not wasted. As one congressman told Jerry Landauer of *The Wall Street Journal,* "Getting elected to Congress is a painful ordeal. When you come out of that cauldron, you're extremely grateful to those who have helped you, financially or with votes . . . . Certainly the donors want influence. They want an open door to your office. They want to be able to come in any time and have you listen. . . . Of course, you'll take a longer look at their problems, and if it doesn't violate your principles you'll try to lean their way, especially on an issue that doesn't involve a lot of other people." ■

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political book notes

Public affairs books to be published in February.

An American Dilemma: The Negro Problem and Modern Democracy, Vols. I & II. Gunnar Myrdal with Richard Steiner and Arnold Rose. Pantheon, $5.95 ea.

Before the Fall: An Inside View of the Pre-Watergate White House. William Safire. Doubleday, $12.50.

Congress in Change: Evolution and Reform. Norman J. Ornstein. Praeger, $11.50/$4.95.

Crisis: The Loss of Europe. Charles A. Cerami. Harcourt Brace Jovanovich, $7.95.

Dear America. Karl Hess. Morrow, $7.95. The author's program for the future is provocative and his account of his journey from Goldwaterism to Left Libertarianism is interesting, although occasionally marred by his tendency to view his old brethren a bit too harshly and his new friends a bit too generously (see p. 43).

Ecological Sanity. George Claus, Karen Bolander. McKay, $15.

Ending Insult to Injury: No-Fault Insurance for Products and Services. Jeffrey O'Connell. Univ. of Illinois, $7.95. The author, who, with Professor Robert Keeton of Harvard Law School, first proposed no-fault automobile insurance, now suggests applying the same concept, under which those injured in accidents are paid for their actual losses without regard to who was at fault but also without regard to their "pain and suffering," to other kinds of accidents. His reasoning is persuasive. In fact his idea may be the only solution to the current shortage of medical malpractice insurance, although it has the disadvantage of sparing incompetent physicians the torment they deserve.

The Experts. Clyde Edwin Pettit. Lyle Stuart, $12.50. The publishers who brought you *The Sensuous Woman* have made their bid for respectability with a collection of optimistic quotes about Vietnam by statesmen, columnists, generals, and other sages. The humor of the book quickly wears thin, and stripped of analysis, introductions, and even pictures, it is hardly worth the price, although it should prove useful for the fans of Joseph Alsop, who can savor nearly two decades worth of wrong-headed predictions about the light at the end of the tunnel.

The Heel of Achilles, Essays 1968-1973. Arthur Koestler. Random House, $8.95. The author of *Darkness at Noon* applies his brooding insights to subjects ranging from ESP to Ghandi. Koestler's basic concern is the threat to society of biological and technological innovations. Our values, he says, haven't kept up with scientific developments. He has an admirable set of pet peeves, including Charles Reich, Muzak, and psychiatrists, but too often Koestler has the same problems of a Karl Hess in reverse, moving from Left to Right.

Long Live Columbus! (Leben Zul Columbus!) *Harry Golden. Putnam, $8.95.*

Hit and Run: The Rise—and Fall?—of Ralph Nader. Ralph de Toledano. Arlington House, $7.95.

Meeting at Potsdam. Charles Mee, Jr. M. Evans, $10.95.

The Military in the Third World. Gavin Kennedy. Scribner's, $17.50.

Nowhere at Home: Letters from Exile. Emma Goldman and Alexander Berkman. Richard and Anna Maria Drinnon, eds. Schocken, $12.95.

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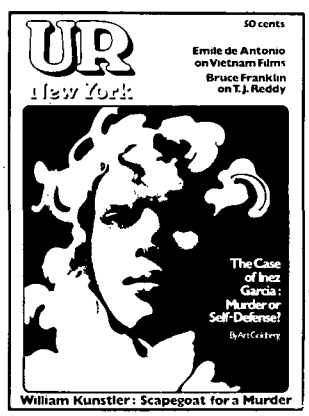

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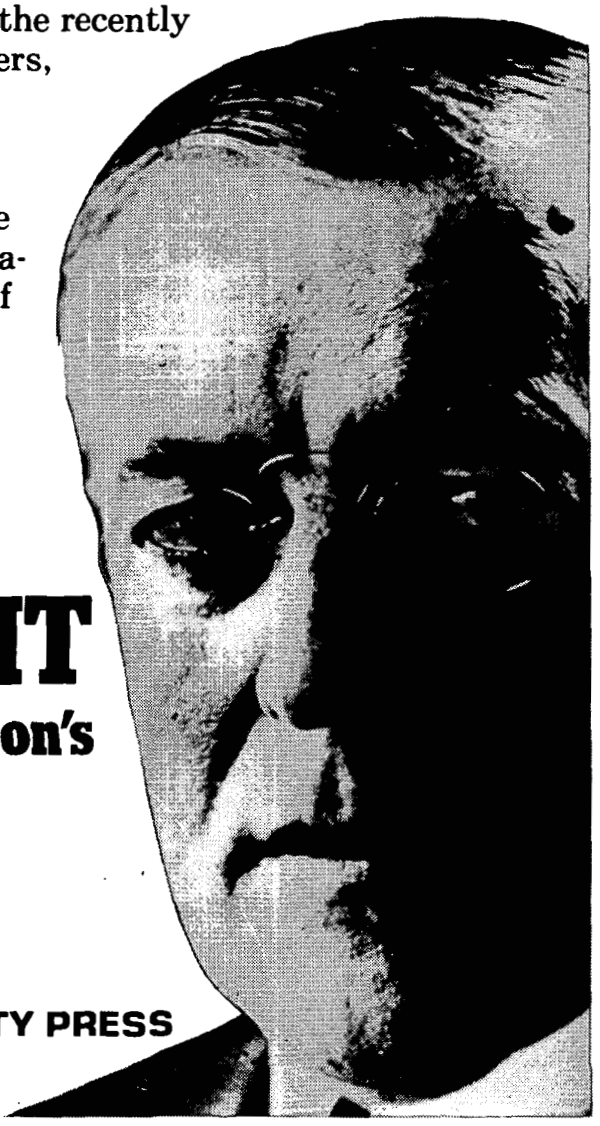

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